UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/76/Add.2
20 January 1993

ENGLISH
Original: FRENCH

Human Rights Committee

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Third periodic reports of States parties due in 1992

Addendum

MEXICO*

[23 June 1992]

* For the initial report submitted by the Government of Mexico, see document CCPR/C/22/Add.1; for its consideration by the Committee, see documents CCPR/C/SR.386, SR.387 and SR.404 and Official Records of the General Assembly, Thirty-eighth Session, Supplement No. 40 (A/38/40), paras. 60-98. For the second period report submitted by the Government of Mexico, see document CCPR/C/46/Add.3; for its consideration by the Committee, see documents CCPR/C/SR.849-853 and Official Records of the General Assembly, Forty-fourth Session, Supplement No. 40 (A/44/40), paras. 96-139. Also see core document of 1 September 1992 (HRI/CORE/1/Add.12).

GE.93-15440 (E)

CONTENTS

	Paragraphs	Page
Introduction	1 - 8	3
Information on articles 1 to 27 of the Covenant	9 - 434	4
Article 1	9 - 34	4
Article 2	35 - 52	8
Article 3	53 - 77	12
Article 4	78 - 80	18
Article 5	81 - 83	18
Article 6	84 - 129	19
Article 7	130 - 167	26
Article 8	168 - 181	36
Article 9	182 - 215	38
Article 10	216 - 226	43
Article 11	227	46
Article 12	228 - 230	46
Article 13	231 - 233	48
Article 14	234 - 281	48
Article 15	282	55
Article 16	283	55
Article 17	284 - 299	55
Article 18	300 - 311	60
Article 19	312 - 321	63
Article 20	322	68
Article 21	323 - 340	68
Article 22	341 - 362	71
Article 23	363 - 365	74
Article 24	366 - 419	75
Article 25	420 - 430	82
Article 26	431	85
Article 27	432 - 434	85
List of annexes*		85

* The annexes are available for consultation in Spanish in the files of the Centre for Human Rights.

INTRODUCTION

1. Mexico, a State Party to the International Covenant on Civil and Political Rights, submits, for consideration by the Human Rights Committee, its third periodic report under article 40 of that multilateral instrument.

2. Article 133 of the Constitution of the United Mexican States specifies that the international treaties concluded by the President of the Republic with the approval of the Senate constitute, together with the Constitution itself and the laws enacted by the Federal Congress, the supreme law of the entire Union; accordingly, the International Covenant on Civil and Political Rights forms part of Mexican law and can serve as the basis and foundation for any legal action.

3. Civil and political rights, recognized in Mexico in the Political Constitution of the United Mexican States, are governed by the country's secondary legislation, which include the Civil Codes, the Penal Codes, the General Population Act and the Federal Electoral Code. These civil and political rights are supplemented by the emphasis placed on social matters in the labour legislation (Federal Labour Act; Federal Act relating to workers in the service of the State and the legislation concerning administrative work in State and municipal governments), the social security legislation of the State and municipal governments and the Federal Education Act; the General Health Act, the Agrarian Act and the Act relating to the National Welfare System.

4. These laws are implemented by a government administration at three levels (federal, State and municipal), in accordance with the guidelines laid down in the National Development Plan 1988-1994 and specific programmes based on that Plan.

5. To guarantee the realization of these rights, Mexicans have available an entire judicial system at all levels of jurisdiction, culminating in the application for protection by the Union's system of justice through the action for "amparo", which protects all Mexicans and foreigners against any act by authority which infringes their civil and political rights. In order to make the system of justice more accessible, there are court-appointed lawyers, the Office of the Attorney-General for Workers' Rights, the Office of the Attorney-General for Consumer Defence and the Office of the Attorney-General for Minors and the Family.

6. In order to strengthen the realization of human rights, the National Human Rights Commission (CNDH) was established; it makes recommendations to the authority responsible and to public officials who abuse their authority or violate civil and political rights.

7. In labour matters, justice is guaranteed by tripartite boards and specialized offices which base their activities not only on justice but also on conciliation and equity.

8. In the preparation of this report account has been taken of General Comments adopted by the Human Rights Committee, contained in documents HRI/1991/1 and HR/PUB.91/1 and in the List of Issues submitted by the Committee in connection with the second periodic report of Mexico.

INFORMATION ON ARTICLES 1 TO 27 OF THE COVENANT

Article 1

Paragraph 1

9. The right of self-determination of peoples was made a constitutional principle in 1991 when it was incorporated in article 89, section X, of the Constitution, the text of which is attached (annex 1).

10. In implementation of the right of self-determination, a 1990 reform introduced a change in the election to the Chamber of Deputies, which is now composed of 500 members, 300 elected by relative majority in uninominal electoral districts, i.e. districts where there is only one candidate for election, and 200 according to the principle of proportional representation elected from lists proposed for consideration by the electorate in plurinominal electoral districts which encompass several States. It should be noted that, although they are elected differently, all deputies have exactly the same rights and duties once they are elected.

11. In accordance with the 1990 reform, 300 deputies are elected according to the principle of relative-majority vote in an equal number of the uninominal electoral districts into which the country is divided on the basis of population, which means that in each case only one titular deputy is elected, with his or her respective alternate. Those candidates whose total number of votes in the district concerned is the largest, whatever that number may be, in comparison with the votes cast for the other candidates, are considered to have won election.

12. The 200 deputies elected by proportional representation are elected through five plurinominal electoral districts, with each electing several titular deputies and their respective alternates, making up the corresponding regional list, who enter the legislature on the basis of the number of votes obtained by their party in the electoral district concerned. The extent of each electoral district, the location of its administrative centre and the number of deputies to be elected from it are determined by the competent electoral authority.

13. To be entitled to deputies elected in accordance with the principle of proportional representation, parties must fulfil two basic requirements: (1) they must have candidates for deputy elected by a relative majority registered in at least 200 uninominal districts, since the aim is to encourage participation by only those parties whose ideology and strength is of national scope and (2) they must have obtained at least 1.5 per cent of the total votes cast for the regional lists of candidates in the plurinominal electoral districts.

14. Under article 12 of the Federal Act relating to Political Organizations and Electoral Processes, all the ballots deposited in ballot boxes, whether valid or invalid, must be considered as forming the total of votes cast, and it is this total number that will be used to determine whether a party has obtained 1.5 per cent of the total votes cast throughout the country for the regional lists.

15. In accordance with the provisions of article 54, section III, of the Constitution, any political party that meets the two above-mentioned requirements is entitled to have a given number of deputies in accordance with the principle of proportional representation, according to a formula laid down by law. The Constitution itself, however, in article 54, section IV, has established certain rules for the issue to political parties of multinominal district deputy quotas. Rules are established for distributing seats according to various criteria, with the aim of guaranteeing both the representation of the various political forces in the composition of the Chamber of Deputies, and the latter's ability to govern through the emergence of a clear and stable majority making it possible for this nationally representative body to hold sessions and take decisions.

16. The first of these criteria relates to the maximum number of deputies provided for in the Constitution, meaning that no political party may have more than 350 deputies elected according to the two principles. In any event the minority political parties are always entitled to at least 30 per cent of the 500 seats in the Chamber, to be distributed among them, even if the majority party obtains more than 70 per cent of the votes cast nationally.

17. The second of the criteria, contained in article 13 of the Federal Electoral Code, provides that if no political party obtains at least 35 per cent of the national vote and no party secures 251 or more relative-majority seats, all parties that meet the constitutional requirements will be assigned the appropriate number of multinominal district seats so that their representation in the Chamber of Deputies according to both electoral principles will correspond to the percentage of votes obtained.

18. The third constitutional rule for distributing the multinominal district seats is known as the "ability to govern clause", aimed at guaranteeing, within a certain range of votes, a majority party that will be able to take decisions in the Chamber of Deputies. Under this clause, contained in article 13, paragraph (b), of the Code, the political party obtaining the largest number of seats by relative-majority voting and 35 per cent of the national vote is allowed a sufficient number of deputies in accordance with the principle of proportional representation to give it an absolute majority: 251 of the 500 seats making up the Chamber of Deputies.

19. The original text of article 13 provided for a situation where one party, having obtained over 35 per cent of the national vote, obtained 51 per cent or less of the number of seats in the relative-majority voting; it was therefore necessary to amend that article in December 1990 in order for this problem to be settled in a manner consistent with the provisions of paragraph (b) of the above-mentioned article. A paragraph (c) was therefore added to article 13, providing that the party obtaining 251 or more relative-majority seats and over 35 per cent but less than 60 per cent of the national vote, will receive two seats for each percentage point above 35 per cent that it obtains.

20. Finally, according to the fourth rule, contained in article 13, paragraph (d), of the Electoral Code, if a party obtains between 60 per cent and 70 per cent of the national vote it will be assigned deputies by proportional representation, and the remaining seats will be distributed to the remainder of the political parties. For this purpose a mathematical

formula called "first proportionality" is employed. This consists of three elements: (1) the corrected quotient; (2) the unit quotient; and (3) the largest remainder.

21. It should be noted that in each case the deputies elected by proportional representation are assigned taking into account the distribution of the political parties' votes in the various multinominal electoral districts. In assigning the seats, the competent electoral authority follows the order of the candidates of each party in their respective regional lists.

22. Finally, it should be mentioned that in the absence of a titular deputy his alternate must serve in his place. In the absence of both, under article 20 of the Code a special election is held for the constituency, in the case of deputies elected by relative majority, and in the case of those elected by proportional representation, the next candidate on the regional list of the political party to which the absent deputies belonged is appointed.

Paragraph 2

23. The previous report gave a full explanation relating to his paragraph, but information must also be provided concerning the amendments of December 1991 to article 27 of the Constitution, which establishes the right of the Mexican people freely to dispose of their natural wealth and resources.

24. Article 27 of the Constitution of the United Mexican States was amended under the December 1991 reform affecting property rights. The amendments do not affect the concept of property rights nor the basic legislation on the subject. They do, however, introduce important rules relating to rural property and they grant religious bodies legal personality and, consequently, the capacity to acquire, possess and administer property.

25. Regarding rural property, the most significant changes are the following:

(a) An end to agrarian distribution. Repeal of sections X, XI, XII, XIII, XIV and XVI. The reasoning behind these changes was that, following the large-scale land distribution conducted under the 1917 Constitution, no more land remains to distribute, and there is no point in maintaining a constitutional obligation for the State to continue this process or the expectation that new grants or extensions will continue to be sought. Section XVII, which sets forth new bases for dividing up lands exceeding 100 hectares for smallholdings and live stock-raising, has been maintained;

(b) Right of peasants in the social sector to form associations among themselves or with private individuals. The new section VII provides that, on the basis of respect for the wishes of community members to adopt the conditions that suit them best for developing their productive resources, the relevant legislation will establish procedures for community members to be able to form associations and authorize the use of their lands by third parties;

(c) Ownership of community property made more flexible. Section VII also allows community members to transfer their rights in their holdings to each other and allows the community as a whole to grant individual members ownership of their holdings. This measure favours the concentration of holdings within the community or even, under certain conditions, the privatization of community property, but maintains the preferential right enjoyed by community members under the law. In order to avoid excessive concentration of community property, it is stipulated that no community member may hold more than the equivalent of 5 per cent of the community's total land area and the rules concerning the limitation of smallholdings must in any case be observed;

(d) Possibility for commercial corporations to own rural property. Such corporations may in no case own land used for agricultural, livestock-raising or forestry activities that exceeds in area the equivalent of 25 times the established limit of 100 hectares for smallholdings. Section VII also provides that rules to govern foreign investment in such corporations shall be established by law. The purpose of these reforms is to permit and facilitate private investment in agricultural, livestock-raising and forestry activities.

26. Establishment of a new constitutional status for relations between the State and the churches. The new section III of article 27 replaces the previous prohibition of public or private charitable institutions being under the sponsorship, management or administration, responsibility or supervision of religious bodies or institutions, or of members of the clergy or other such persons. Section III provides that such institutions may not own more real estate than is strictly necessary for their purpose (article 27 is attached as annex 2).

27. Pursuant to article 27, section XIX, the Office of the Attorney-General for Agrarian Affairs has been established; its purpose is to resolve disputes concerning agrarian matters.

Item II (a) of the list of issues 1/: "What is the position of Mexico in relation to the right to self-determination of the Namibian and Palestinian peoples?"

28. Namibia's independence process was encouraged from the outset and followed with great interest by Mexico, which made no secret of its support for the South West Africa People's Organization (SWAPO), in accordance with the guiding principles of its foreign policy, that calls for rejection of any form of colonialism and respect for the right of self-determination and independence of peoples. Diplomatic relations between Mexico and Namibia were formally established on 17 April 1990.

29. Mexico considers that the exercise of the Palestinian people's inalienable right to self-determination and independence are essential to the establishment of peace in the Middle East. In accordance with United Nations

---

1/ List of issues to be taken up in connection with the consideration of the second periodic report of Mexico.

Security Council resolutions 242 (1967) and 338 (1973), Mexico has condemned the occupation of the Arab territories, the policy of settlement of those territories and the violations of the human rights of the Palestinian people in general.

30. Mexico also believes that the right of all the States in the area to live in peace within internationally-recognized borders should be recognized.

Item II (b) of the list of issues: "What measures has Mexico taken to prevent public and private support for the apartheid regime of South Africa?"

31. The position taken by Mexico has been to condemn the apartheid policy of the Pretoria Government, for which reason it has voted in favour of all the United Nations resolutions condemning that regime and has criticized in particular the behaviour of those countries that cooperate with South Africa in the military field.

32. For that reason, the Government of Mexico has established as an objective of its policy towards South Africa the complete elimination of racial discrimination, the equality of that country's citizens under the law and respect for the rules and principles of international law.

33. The Government of Mexico has taken note of the positive developments tending towards the dismantling of the segregationist system and the introduction of a multiracial democracy.

Paragraph 3

34. With respect to this paragraph, it is pointed out that Mexico has no territories under trusteeship.

Article 2

35. Since Mexico's last report, submitted in 1987, Mexican society has been developing and changing, in a manner consistent with the Committee's General Comments 3 [13] and 15 [27]. Many of these changes have made it necessary to adapt the legislation in order to ensure all individuals their rights. The Mexican State is currently modernizing its relations with political parties, trade unions, business associations, churches, peasants, rural and urban organizations and indigenous communities, with respect for the rule of law and always taking care to guarantee the sovereignty and equality of all Mexicans, without any discrimination.

36. In keeping with the provisions of the Covenant, certain articles of the Constitution, such as articles 3, 5, 24, 27 and 130, have been amended.

37. The following are the principles underlying the changes to the Constitution:

(a) The strengthening of democratic freedoms;

(b) Reaffirmation of the secularization of society;

(c) Endorsement of secularism and tolerance as collective values;

(d) Recognition of the multicultural make-up of the Mexican nation;

(e) Prevention of the return of unfair privileges for all time;

(f) Avoidance of ambiguous pretence and complicity through adoption of clear and transparent rules and not anachronistic prohibitions.

38. Of most significance is the amendment to article 102 of the Constitution, which gives constitutional status to CNDH and provides for the establishment of human rights commissions at the local level.

39. Under these reforms, the essential function of the Supreme Court of Justice is to be the final arbiter in constitutional matters, while the collegiate circuit courts are made responsible for ensuring compliance with the law, especially in the case of appeals against judicial decisions of local courts (judicial review proceedings).

40. The consideration of constitutional law issues in Mexico in the near future will focus on the remedy of amparo and on the institutions for the defence of human rights.

41. The Constitution's new article 102, section B, provides as follows:

> "The Congress of the Union and the State legislatures, within their respective spheres of competence, shall establish bodies for protection of the human rights granted by the Mexican legal order. These bodies shall hear complaints of acts or omissions of an administrative nature by any public authority or public official, with the exception of the judiciary of the Federation, that infringe these rights. They shall publicly make independent and non-binding recommendations to and lodge complaints with the competent authorities.
>
> "These bodies shall not be competent to deal with electoral, labour and jurisdictional matters.
>
> "The body to be established by the Congress of the Union shall investigate any failure to implement the recommendations and decisions of equivalent bodies at the State level and any failure of these bodies to take action."

42. The State legislators will have one year from the date of publication of the relevant decree in the Diario Oficial de la Federación (28 January 1992), to set up these bodies for the protection of human rights.

43. Several federal entities have established commissions along the lines of the National Human Rights Commission (CNDH) and this trend is sure to increase in view of success of the National Commission.

44. Changes have also been made in article 4 of the Constitution, which provides for protection of the culture of the Indian peoples, and particularly their languages, as factors on which their social organization is dependent

and which provide the basis for their identity and communication with the broader national group to which they belong. The text, as amended, is attached (annex 3). Since the indigenous groups primarily form part of the rural sector, the constitutional provision guarantees them the right to have their legal practices and customs taken into account in dealing with all agricultural questions. This will no doubt prove one of the surest methods of promoting the development of Mexico's ethnic groups.

45. As regards freedom of belief, articles 24 and 130 of the Constitution have been amended with the basic aim of broadening religious freedom in accordance with three fundamental principles: separation of church and State; secular education in public schools and unrestricted freedom of belief.

46. Article 1 of the Constitution provides that every person in the United Mexican States, not excluding foreigners, shall enjoy the individual guarantees - as human rights are called in Mexico - granted by the Constitution, and that these cannot be restricted or suspended except in the cases and under the conditions specified in the Constitution. These individual guarantees are protected by the remedy of amparo and by the recently-established National Human Rights Commission.

Item 1 (a) of the list of issues: Have there been any judicial decisions where the Covenant has been directly invoked before the courts? If so, please provide examples.

47. The structure of the Mexican legal system is adequate to ensure and protect full enjoyment and exercise of human rights. As was mentioned in a previous report, it includes, pursuant to article 133 of the Constitution, international treaties and conventions. Consequently, in the case of any complaint to national courts concerning infringement of human rights, reference is made specifically to the internal provision of Mexico's laws which is considered to have been contravened.

Item 1 (b) of the list of issues: Please clarify what is meant by the term "direct amparo".

48. Article 158 of the Amparo Act defines the term as follows:

> "Actions for direct amparo fall within the jurisdiction of the appropriate collegiate circuit court, as provided in sections V and VI of article 107 of the Constitution, and are instituted in respect of final judgements or decisions, and orders ending proceedings, by judicial, administrative or labour courts, in respect of which no ordinary remedy permitting amendment or correction is available, whether the violation originates in the judgement or decision or, having been committed in the course of the proceedings, affects the complainant's defence and goes beyond the outcome of the judgement, and in respect of violations of guarantees contained in the above-mentioned judgements, decisions or orders.
>
> For the purposes of this article, actions for direct amparo may be instituted only in respect of final judgements or decisions, and orders ending proceedings, by civil, administrative or labour courts, when they

contradict the letter of the law applicable to the case, its legal interpretation or general legal principles where there is no applicable law, when they include acts, exceptions or matters which were not the subject of the proceedings, or when they do not include all relevant matters, by deliberate omission or exclusion.

When, in the course of proceedings, matters arise, except those which are impossible to remedy, relating to the constitutionality of laws, international treaties or regulations, they may be admitted only in direct amparo, in appeal against the final judgement or decision or order ending proceedings."

Item 1 (c) of the list of issues: Please provide additional information concerning measures taken to disseminate information concerning the Covenant, including the role of non-governmental organizations in such endeavours (see paras. 89 to 91 of the report). What is the status, role and current composition of the Mexican Academy of Human Rights, which was established in 1984?

49. The CNDH publication entitled "Los derechos humanos de los Mexicanos" states on page 5:

"Mexico has entered into agreements with other countries to ensure respect for human rights throughout the world. These agreements, which also substitute law that is applicable in our country, are known as covenants, treaties or conventions.

The three most important ones are:

(1) the International Covenant on Civil and Political Rights;

(2) the International Covenant on Economic, Social and Cultural Rights; and

(3) the American Convention on Human Rights."

50. Information concerning the Covenants has been disseminated in other CNDH publications, such as "Estudios sobre Derecho Internacional y Derechos Humanos".

51. In addition, organizations such as Amnesty International are carrying out in Mexico campaigns to publicize the rights proclaimed in the Covenant.

52. With regard to the second part of the question, the Mexican Academy of Human Rights, established on 5 September 1984, is an independent, pluralist non-governmental public service organization whose many functions are described below:

(a) the objectives of the Academy are: to promote research, study and the teaching and defence of human rights; to compile information and documentation on the status of human rights in the world as a whole and in Latin America and Mexico in particular; to disseminate and publish the results

of research and discussion on the question of human rights; to collaborate with national, foreign and international specialist institutions in producing and preparing teaching materials for human rights education;

(b) its services comprise: courses, scholarships, workshops and public events; the compilation, classification and archiving of information; publications, education and training;

(c) its publications include: a bulletin, reports, studies, judgements, etc.;

(d) the Academy consists of an executive council, a consultative committee, a technical office and programme coordinators. At present it has more than 40 members reflecting the plurality of Mexican society, all highly respected personalities in their particular field.

Article 3

53. In reply to the Committee's General Comment 4 [13], according to Mexico's 1990 census, out of a total population of 81,140,922, 41,262,386 were females and 39,878,536 were males.

54. As previously reported, Mexico has constitutional provisions and appropriate laws in its national legislation to ensure that women have equal rights in all areas of national life.

55. The principle that all inhabitants of the country enjoy equality before the law is enshrined in the Political Constitution as a fundamental provision of Mexican law. Article 1 of the Constitution states: "Every person in the United Mexican States shall enjoy the guarantees granted by this Constitution ...". In addition, the constitutional declaration explicitly states, in article 4, the principle of equality of men and women by providing that "Men and women are equal before the law. The law shall protect the organization and development of the family."

56. Under the Constitution, the principle of the equality of men and women under the law is also explicitly stated in relation to nationality (article 30), civil capacity (article 34) and in employment legislation (article 123).

57. The Constitution recognizes that nationality can be passed on by one or both parents. Article 30, (a), II, of the Constitution provides that the following are Mexican by birth: "Persons born in foreign countries of Mexican parents; of Mexican father or of Mexican mother". In paragraph (b), subparagraph (II), it is provided that the following are Mexican by naturalization: "Alien women or men who marry Mexican men or women and live or establish their domicile within the national territory".

58. Article 34 of the Constitution guarantees equality in the enjoyment of political rights in providing that: "Mexican citizenship shall be enjoyed by those men and women who, having the status of Mexicans ..." have completed their eighteenth year.

59. Article 123 of the Constitution guarantees the right to appropriate and socially useful work. Concerning security of employment in relation to maternity, subparagraph V of paragraph (a) provides that: "During pregnancy, women shall not do work requiring considerable physical effort and which endangers their health; they shall enjoy a mandatory period of leave of six weeks prior to the expected date of birth and six weeks following the date of birth, and they shall receive full salary and retain their employment and the rights acquired in relation to that employment. During the nursing period they shall have two special rest periods per day, each of half an hour, for feeding their children."

60. With regard to equality of remuneration subparagraph VII of paragraph (a) provides: "There shall be equal pay for equal work, regardless of sex or nationality".

61. It should also be noted, regarding the guiding criteria for public education, that article 3 of the Constitution states that the education provided by the State: "Shall contribute to improved human coexistence, ... avoiding privileges for a particular race, sect, group, sex or individual."

62. Article 4 of the Constitution also provides that the organization and development of the family shall be protected by law and recognizes that all persons shall have the right to decide freely, responsibly and in an informed manner the number and spacing of their children.

63. Mexico's legislation provides that women shall have equal rights in the exercise of civil and political rights, access to education, employment and remuneration, and guarantees of social security. It emphasizes that men and women have equal responsibilities in family life, and provides for the establishment of social services for the care of children.

64. With regard to the guarantee of equality in the exercise of civil rights, article 2 of the Civil Code for the Federal District in ordinary matters and for the Republic as a whole in federal matters states: "Legal capacity is equal for men and women; women may therefore not be subjected, on the ground of their sex, to any restriction in the acquisition and exercise of their civil rights".

65. In order to ensure that men and women have equal rights and responsibilities in family life, amendments were made to the Civil Code in 1974 and 1983 on such matters as conjugal union, conjugal home, divorce, parental authority and custody of children, family property, concubinage, compensation for inadequacies and procedural reforms required to achieve the central objective of implementing the principle of equality of women and strengthening the family as the basis of Mexican society.

66. With regard to equality in employment and remuneration, article 3 of the Federal Employment Act provides: "Work is a social right and duty ... No distinction may be made between workers on grounds of race, sex, age, religious belief, political views or social status".

67. The principle of equality of men and women in employment matters is also enunciated in article 164 of the above-mentioned Act, when it provides that: "women enjoy the same rights and have the same obligations as men".

68. The Social Security Act guarantees rights to social security, medical and maternity insurance and the social benefits to which workers and their families are entitled. The number of persons insured by the Mexican Social Security Institute is 10.5 million, thus the total population covered and entitled to benefits is some 38 million.

69. Various programmes for women's and family welfare are being implemented through the National Health System. They include the Family Planning and Healthy Pregnancy Programme.

70. With regard to ensuring and dispensing justice, four special agencies of the Attorney-General's Office were established in the Federal District in April 1989, staffed by specialist women professionals to deal exclusively with the preliminary investigation of sexual offence cases.

71. Mexico is a party to the principal multilateral instruments concerning women's rights, including:

(a) the International Convention for the Suppression of the Traffic in Women and Children (10 May 1932);

(b) the Convention on the Nationality of Women (27 January 1936);

(c) the International Convention for the Suppression of the Traffic in Women of Full Age (3 May 1938);

(d) the Inter-American Convention on the Granting of Civil Rights to Women (11 August 1954);

(e) the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (21 February 1956);

(f) the Convention on the Nationality of Married Women (4 April 1979);

(g) the Convention on the Elimination of All Forms of Discrimination against Women (23 March 1981);

(h) the Inter-American Convention on the Granting of Political Rights to Women (24 March 1981);

(i) the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (22 February 1983).

72. The Government of Mexico has taken a number of positive measures to guarantee that the legal equality between men and women is realized in practice.

73. Development programmes have devoted particular attention to promoting the social status of women in order to achieve for them objective equality of opportunity in all areas of national life. National development, the accelerated urbanization process, the modernization of the economy and the profound changes in the cultural and educational life of Mexico have progressively created the objective conditions and requirements for increasing participation of women in economic, social and political activities.

74. The priorities set in the strategy of the 1989-1994 National Development Plan are to improve standards of living through economic output, to satisfy fundamental demands for social welfare and to tackle poverty head on.

75. Following the proclamation by the United Nations of International Women's Year in 1975, national efforts in this field have also linked up with initiatives approved by the international community at the world conferences held in Mexico City, Copenhagen and Nairobi, which stressed the interrelationship between women's issues, development and society as a whole.

76. Tables 1 and 2 show the voting pattern of men and women in the 1988 and 1991 elections:

Table 1

Year	Total number of registered voters	Women	Per cent	Men	Per cent
1988	38 074 926	19 387 753	50.92	18 687 173	49.08
1991	39 026 679	21 218 460	54.36	17 808 219	45.64

Table 2

Total number voting (1991)	Women	Per cent	Men	Per cent
23 977 020	11 217 304	46.78	12 759 716	53.22

Source: Federal Electoral Institute.

77. Tables 3 and 4 show the participation, on a party basis, of men and women and the results of the 1988 federal elections:

Table 3

Parties	Deputies by relative majority		Deputies by proportional representation		Senators	
	M	W	M	W	M	W
Partido Acción Nacional (PAN)	274	26	161	39	59	5
Partido Revolucionario Institucional (PRI)	259	41	171	29	55	9
Partido Popular Socialista (PPS)	272	28	150	50	58	6
Partido Demócrata Mexicano (PDM)	243	37	149	51	38	5
Partido Mexicano Socialista (PMS)	262	38	168	32	59	5
Partido Frente Cardenista de Reconstrucción Nacional (PFCRN)	166	27	155	45	59	5
Partido Revolucionario de los Trabajadores (PRT)	221	79	126	74	38	26
Partido Auténtico de la Revolución Mexicana (PARM)	238	15	156	44	55	3
Total	1 934	291	1 236	364	421	64
Percentage	86	14	61	29	87	13

Table 4

Parties	Members of the Congress of the Union					
	Deputies by relative majority		Deputies by proportional representation		Senators	
	M	W	M	W	M	W
PAN	89	11	54	8		
PRI	274	37	25	2	52	8
PPS	30	5	28	5	1	1
PMS	17	2	17	2		
PFCRN	36	3	31	3	2	
PARM	29	1	24	1		
Total	475	59	179	21	55	9
Percentage	89	11	90	10	85.9	14.06

Item IV (b) of the list of issues: "What is the ratio between men and women enrolled in secondary and higher education?"

Table 5

	Women	Men
Total population in the secondary education system*		
Secondary - 10 824 047	5 112 167	5 711 880
Total population in the higher education system**		
1 246 000	533 988	712 012
Degrees - 1 091 324	454 395	636 926
Education diploma - 109 730	64 301	45 429
Postgraduate - 44 946	15 289	29 657

Source: * Eleventh General Population Census, 1990.

** ANUIES statistical yearbook 1991 and SEP 1991.

Item IV (c) of the list of issues: "What is the ratio between men and women elected in the parliamentary elections of July 1988?"

Table 6

	Number of women	Total number	Percentage
A. Congress of the Union:			
Deputies	43	500	8.6
Senators	3	64	4.68
B. Assembly of representatives:			
Representatives	14	66	21.21

Source: Federal Electoral Institute.

Article 4

78. With regard to the suspension of individual freedoms, the observations in Mexico's previous report are still valid.

79. Article 29 of the Constitution enumerates the cases in which such freedoms may be suspended. Nevertheless, since the entry into force for Mexico of the International Covenant on Civil and Political Rights, no exceptional situations justifying the adoption of such measures have ever arisen.

Item III of the list of issues: "Please comment on any possible incompatibility between article 29 of the Constitution and article 4 (2) of the Covenant."

80. With regard to this question, article 29 of the Constitution is fully in accord with the terms of article 4, paragraph 2, of the Covenant.

Article 5

81. There has recently been a trend towards interference in the internal affairs of States under the pretext of protecting human rights throughout the world. This runs counter to the principles of non-intervention and respect for State sovereignty enunciated in a number of international instruments, including the Universal Declaration of Human Rights.

82. In the Mexican Government's view, such interventionist aims are inconsistent with article 1 of the Covenant, which refers to the self-determination of peoples for the purpose of freely determining their political status and thereby creating the necessary conditions for their economic, social and cultural development, and cannot be taken as justifying or supporting the violation of such rights in any country.

83. The Mexican Government reaffirms its belief that it is through international cooperation and observance of the purposes and principles of the Charter of the United Nations that respect for human rights may be encouraged at the international level.

Article 6

Item V (a) of the list of issues: "Please provide necessary additional information on article 6 in accordance with the Committee's General Comments Nos. 6 [16] and 14 [23]."

84. As regards efforts to avert the danger of war, especially thermo-nuclear war, and to strengthen international peace and security, as well as to prohibit the manufacture, testing, possession, deployment and use of nuclear weapons. As mentioned in General Comments Nos. 6 [16] and 14 [23], Mexico has always advocated peace and the peaceful settlement of disputes and has condemned armed conflicts. This is demonstrated by its active participation in the Group of Six and in the Contadora Group and its Support Group, in order to find a solution to the conflict in Central America.

85. The Mexican Government contributed extensively to the peacemaking efforts that culminated in the signing of the Treaty of Chapultepec which ended the war in El Salvador. Mexico has also served as the venue for discussions between the Government of Guatemala and armed groups in that country and for talks between the Government of Colombia and guerrilla movements.

86. As an initiator and sponsor of the Treaty of Tlatelolco it has been promoting the non-proliferation of atomic weapons for the 25 years since that important international instrument came into existence, making Latin America the first region in the world to prohibit nuclear weapons. Twenty-nine countries have signed the Treaty to date, and 26 have ratified it (see annex 4).

87. Latin American policy may be said to have largely inspired the Pacific countries to sign the Treaty of Rarotonga.

88. Mexico's position in favour of disarmament and against the diversion of economic resources for the manufacture of conventional weapons and weapons of mass destruction, resources it is convinced must be channelled to national social and economic development, has been made known in a number of international forums, particularly the United Nations Committee on Disarmament. In recognition of the work done in this area, the Nobel Peace Prize was awarded to the then-representative of Mexico in the Committee, Alfonso García Robles.

89. Throughout the cold war, security calculations were based on strategic military considerations, with a consequent squandering of human and economic resources.

90. Although article 22, paragraph 3, of Mexico's Constitution provides for capital punishment as the penalty for the commission of a number of serious offences, such as high treason during a foreign war, parricide, murder committed by treachery, with premeditation and for gain, arson, abduction,

highway robbery, piracy and grave military offences, the Penal Code defines extenuating circumstances which may obviate the use of capital punishment in specific cases by substituting maximum terms of imprisonment, depending on the gravity of the offence; this shows the respect accorded in Mexico to the right to life.

91. In practice, capital punishment has disappeared from ordinary Mexican justice; the consensus in favour of abolition is so strong that the Penal Code in force and the penal legislation for the Federal District in ordinary matters, and for the Republic as a whole in federal matters, do not provide for the death penalty, which has not been applied for 53 years, since 1929.

92. As far as the Code of Military Justice is concerned, the information given in the previous report still applies: although the death penalty is maintained for serious offences, it is a dead letter so far as its application is concerned.

93. In its General Comment 6 [16], the Committee indicates that it considers it necessary for States parties to take all possible measures to reduce infant mortality and to increase life expectancy, especially by adopting measures to eliminate malnutrition and epidemics and to prevent ecological disasters.

94. Infant mortality continues to decline steadily. Official records show that in 1990 there were 25 deaths per 1,000 live births. In rural areas, however, unofficial surveys have estimated that the real rate is 30 per 1,000 live births.

95. In the past few decades, the Mexican Government has taken steps to enable the population to increase its life expectancy, which stood at 40 years in 1930, to 69 years by the end of the century.

96. The National Health System has been carrying out a programme of universal vaccination with the support of all its agencies. The programme has set itself the ambitious goal of achieving by October 1992 total basic vaccination of children under the age of five.

97. The Mexican Government set up in December 1982 a Department of Urban and Ecological Development (SEDUE). Among other tasks, this Department focuses on problems of environmental pollution and degradation of natural resources. In 10 years, the Department has developed machinery for action in four different areas: standardization and regulation, prevention and monitoring of environmental pollution, conservation of natural resources and of the environment and community action.

98. The importance attached by the present Government to ecological issues is reflected, in investment terms, in increased budgetary allocations for the environment. According to the country's expenditure budget, the various departments of the federal administration will have spent US$ 370 million in 1991 on measures to protect the environment, and this does not include the ecological budget for the office of the Federal District.

99. Between 1989 and 1991, the budget for SEDUE's Ecology Branch rose by 613 per cent, increasing from US$ 5.4 million to US$ 38.8 million, which made possible a substantial expansion of its response capacity and greater ability to meet demands.

100. As regards prevention and monitoring of environmental pollution by industry, inspections are carried out, operating licenses are granted and orders to control discharge of runoff into major catchment basins and bodies of water are issued. In addition, 118 accords have been signed with industries based in Mexico City; while at the level of the States over 396 letters of agreement with industries have been signed by the Government with the aim of incorporating non-pollutant machinery and procedures in the production process. On the basis of such commitments, Mexican industry has allocated over 170 million pesos to such activities. In May 1992 SEDUE became the Department of Social Development; it will continue to deal, inter alia, with environmental affairs.

101. With regard to the State's obligation to protect human life through legislation, attention is drawn to the fact that one of the principle measures for preventing arbitrary deprivation of life and punishing those responsible was adopted on 27 December 1991, with the approval of amendments to the Act for the Prevention and Punishment of Torture (see infra, para. 251; and HRI/CORE/1/Add.12, para. 52).

Item V (b) of the list of issues: "Since the death penalty has fallen into disuse, are there any plans for its formal abolition by amending article 22 of the Constitution?"

102. As was indicated above, the death penalty has not been incorporated into Mexico's penal codes and there is a strong movement in favour of deleting all reference to the death penalty from the Constitution. However, no specific proposal to amend the text of article 22 of the Constitution has so far been put forward.

103. The information concerning article 22 provided by the Mexican Government in previous reports remains valid.

Section V (c) of the list of issues: "What are the rules and regulations governing the use of firearms by the police and security forces? Have there been any violations of these rules and regulations and, if so, what measures have been taken to prevent their recurrence?"

104. This issue is thoroughly covered by article 10 of the Constitution and by the Federal Firearms and Explosives Act and its regulatory text, which guarantee the freedom of all the country's inhabitants to own and bear firearms, subject to the restrictions provided in the Act.

105. These provisions state that civil servants and officers of the police forces are obliged to present their weapons to the National Defence Department for registration; that a licence must be obtained in order to bear arms, except in the case of members of the armed forces and the police forces; that licences to bear arms are divided into two categories, those for private

individuals and those for officials; and that official licences are either individual or collective, collective licences being issued to members of the police forces.

106. This shows that the possession and bearing of firearms by all citizens of the United Mexican States and by all members of the police forces are fully regulated; there have been no violations to date by the police and security forces of the relevant regulations.

107. The bearing of firearms by the police in Mexico is governed by the Federal Firearms and Explosives Act and its regulatory text. The Act names the Department of National Defence as the body that controls, supervises and authorizes the use of firearms and explosives and detonating devices. Within this context there are regulations authorizing the use of firearms of various models and calibers by the Department of Security and Highways under licence No. 6 issued by the Department of National Defence. These regulations also establish the procedures for the allocation of weapons and its monitoring, including the following points:

(a) Any transfer of weapons, such as their issuance or return, must be registered and must also be reported to the Department of National Defence;

(b) The users of the weapons may be only those personnel listed in the payroll as police officers;

(c) The Department of Security and Highways is responsible for issuing credentials for weapons users in accordance with the specifications set out in licence No. 6;

(d) Personnel using weapons may carry them only when on active duty within the boundaries of the Federal District.

108. The internal regulations of the Department of Security and Highways are aligned on the provisions of the Federal Firearms and Explosives Act and on licence No. 6 issued by the Department of National Defence. They are supplemented by the standards regulating the use of firearms by police officers according to the situations, in which they may find themselves.

109. Through the Department of Security and Highways, the Government of the Federal District always applies, as needs and circumstances dictate, security regulations designed to ensure the integrity of citizens in terms of their physical welfare, their rights and their property. To this end, deployment of personnel, weapons and livestock entails a great many activities that constitute a public safety system for the areas of social affairs, sports and entertainment.

110. The regulation and use of weapons, for which the Department of Security and Highways has responsibility, is effected by educational and regulatory means. At the educational level, the Department's officers are told that respect for and the security of inhabitants of and visitors to the Federal District are the fundamental aspects of their professional training. In addition, internal rules and regulations lay down operating guidelines for and

limitations on the use of weapons in any unexpected event or situation that might lead to infringement of the rights of any citizen involved in the commission of an offence.

111. In order to prepare for the unexpected, and to provide suitable training for officers joining the Department, the latter are given appropriate instruction in the use and handling of the weapons issued to them, and they must observe the rules laid down in the Manual of Standards for Firearms and Ammunition, which states, in chapter II, article 49:

"Staff issued with a firearm may make use of it only in the following cases:

I. When their lives are in danger from physical attack;

II. When the lives of persons, fellow officers or the public in general are in danger;

III. When property assigned to their custody may suffer damage or be removed from where it is situated."

112. It states further:

"Other methods of control or persuasion should be employed before using a weapon, which should serve only as a last resort."

113. In conformity with the foregoing, weapons are generally employed in a national manner, the decision regarding their use and handling being left to the user himself, who bears responsibility for any improper use.

114. This is attributable to the training in weapon use that is given to the personnel and to the efforts made to enhance their awareness through a knowledge of the regulations governing their duty as public servants.

115. It should be noted that, in the Federal District, the Penal Code applies to police officers in the same way as to other citizens; this is why the mitigating circumstances deriving from their functions, and specifically, from their use of weapons, are spelled out.

116. The exercise by the police of their official functions is also regulated by the "Penal Code for the Federal District", which covers:

(a) The use of weapons by civil servants (Title Four, chapter III, article 160);

(b) Offences committed by civil servants, in the following titles: Ten, "Offences committed by civil servants", and Eleven, "Offences against the administration of justice." Attention is drawn to the fact that Title Ten, chapter I, article 213 bis, states that where a civil servant who is a member of one of the police forces is involved in an offence such as abuse of authority or intimidation (articles 214, 215 and 219), the penalties provided for shall be increased by up to one half, and the person concerned shall be dismissed and prohibited from holding any other public employment function or office for a period of one to eight years.

117. The regular updating of the applicable legislation is a necessary response to the modernization of Mexican society and of the State security agencies; this is exemplified by the recent updating of Title Eleven, articles 226 and 227, by a decree amending, supplementing and repealing them, which the Executive published on 30 December 1991 in the Diario Oficial of the Federation.

118. The provisions of the law governing the bearing of firearms by members of the Federal Criminal Investigation Service in the performance of their duties are to be found in article 10 of the Constitution; in the Federal Firearms and Explosives Act and in the relevant regulatory text, as well as in the Penal Code for the Federal District in ordinary matters and for the Republic as a whole in federal matters.

119. The bearing of official service weapons by officers of the Federal Criminal Investigation Service is restircted in two ways. In the first place the Federal Firearms and Explosives Act prohibits such officers from bearing and using weapons reserved for the national army, navy and air force. The second restriction is one resulting from technological advances.

120. The current exceptional circumstances determine the rules that are applicable to weapons used by the Federal Criminal Investigation Service, with which there is strict and full compliance. This is because they are weapons that in principle are reserved for the national armed forces, and only exceptionally for the use of the Federal Criminal Investigation Service in the exercise of its functions.

Item V (d) of the list of issues: "Have there been any complaints during the reporting period concerning alleged disappearances and deaths caused by or with the cooperation or coordination of the police, the security forces or other authorities? If so, have such allegations been investigated by the authorities and with what results?"

121. Upon the establishment of the National Human Rights Commission, the Mexican Government set up, within the framework of the Commission, a Programme on Alleged Disappearances. Until its third working session, the Programme worked in cooperation with the Office of the Attorney-General of the Republic and examined 236 files on cases of disappearances, dating back to the 1960s. Since May 1993, the Commission has had its own investigators to look into cases of disappearances.

122. As at 31 December 1991, the total number of cases cleared up stood at 40. Sixteen of these cases involved persons who allegedly disappeared between 1973 and 1981, while the remaining 24 cases involved disappearances that occurred between 1989 and 1991. Attention is drawn to the fact that in none of the 23 cases clarified and recorded as disappearances between 1990 and 1991 can political motives be adduced. The reasons for the disappearances were determined to have been: drug-trafficking connections, agrarian disputes assault, kidnapping and homicide committed by individuals, as well as voluntary disappearances (see annex 4.A).

123. It should be noted, with regard to the disappearance of José Ramón García Gómez, that the National Human Rights Commission's ongoing

investigations seem to indicate that members of the police force of the State of Morelos may have been involved in this disappearance. An officer of the criminal investigation service of that State and a Federal employee have been apprehended in connection with the disappearance, and a warrant has been issued for the arrest of Commander Antonio Noriega Carbajal, who is a fugitive from justice.

124. As regards deaths caused by police officers, José Antonio Zorrilla, former Director of the Federal Criminal Investigation Service, was arrested in June 1989 and has been convicted of the murder on 30 May 1984, of the journalist Manuel Buendía.

125. As a result of investigations carried out by the National Human Rights Commission, Mario Alberto González Treviño, a former commandant of the Federal Criminal Investigation Service, was brought before a federal judge on 26 September 1991 and charged with responsibility for the assassination of the lawyer Norma Corona Sapién, which took place on 21 May 1991. The Office of the Attorney-General has also initiated criminal proceedings against other officers of the Investigation Service who participated in the crime.

Item V (e) of the list of issues: "What is the current rate of infant mortality in Mexico and how does the infant mortality rate among the ethnic groups compare with that of the general population?"

126. In 1990, 65,497 infants died, which corresponds to a rate of 24.07 per cent.

127. Although a clear downward trend in mortality is evident in Mexico, there are still social and other groups where such preventable deaths occur at very high rates, affecting principally children, one of the most vulnerable groups in society.

128. There has been a steady decline in infant mortality, although differences among the various federal districts are pronounced, amounting to nearly 30 deaths per 1,000 live births.

129. For reasons connected with the census, the infant mortality rate was calculated for the population as a whole, and indigenous regions were not singled out. The extent of the requirement for health care varies. The main requirement is for medical care. In the past 10 years the Government of the Republic has made a considerable and continuous effort to provide health care to Mexicans, including Indians, who live in remote rural areas. A variety of programmes have been carried out. A noteworthy development has been the establishment of the Mexican Social Insurance and Solidarity Institute. The physical infrastructure for the provision of health care to 13.5 million persons in 28,519 communities totals nearly 4,000 establishments. The coverage is insufficient, however, owing to problems of dispersion, lack of communications and access. Under this programme, 53.7 per cent of the rural population receives health care, a figure which illustrates the scope of the effort. In indigenous regions, which are the most inaccessible, the rate drops substantially. In some indigenous regions, over 80 per cent of all births take place using traditional birth practices.

Article 7

130. Since the submission of the previous report by the Government of Mexico, there have been significant changes in relation to the issues connected with article 7 of the Covenant.

131. In conformity with the Committee's General Comment No. 7 [16], one of the basic objectives pursued by President Carlos Salinas de Gortari has been the strengthening of democracy in the country and maintenance of the rule of law. The fundamental rights, embodied in the Constitution and in the legal norms in force, of all persons, whether Mexican or alien who are living in or transiting through the country, are guaranteed. To guarantee these rights, the Mexican legal system has institutions and procedures for ensuring their full and complete enjoyment. Mexico possesses both the political will and the legal machinery for guaranteeing human rights and preventing torture and impunity from justice.

132. The President of the Republic has repeatedly affirmed that his Government will not cover up abuses, lapses or excesses committed by anyone who ignores his or her responsibility as a civil servant, and that he will not defend private interests that attempt to place themselves above the rule of law. Yet the continued occurrence of violations of human rights by certain members of Mexican society make it difficult to protect human rights by means of the traditional methods.

133. In order to give the highest priority to individual and collective guarantees, the President has established a new mechanism for the defence of human rights. By a decree of 6 June 1990 he set up the National Human Rights Commission (CNDH) which deals with violations of human rights in general, carries out investigations where it sees fit, evaluates the evidence and makes appropriate recommendations.

134. The Commission's terms of reference and mandate are well defined, consisting of the Constitution, the national policies in the field of human rights, the relevant legislation, the international treaties and agreements Mexico has signed, and the presidential decree establishing the commission, which provides for its organization and clearly defines its competence, so that there is no duplication with existing bodies or organs. This initiated a new stage in the defence of human rights in Mexico, and the action taken was reinforced in December 1991 when the Congress of the Union approved, on the initiative of President Carlos Salinas de Gortari himself, the elevation of the Commission to constitutional rank.

135. The new political, economic and social conditions in Mexico have led to a systematic reform of the country's criminal law aimed at ensuring full protection of human rights. A number of amendments to the penal codes in force in Mexico that have been approved by the Congress of the Union constitute a major step forward in reforming the Mexican judicial system with a view to improving it and preserving human rights and civil rights in general.

136. The National Human Rights Commission submitted a number of bills prepared in collaboration with distinguished Mexican jurists. The results of this work

include the Federal Act for the Prevention and Punishment of Torture; the Statute of the National Human Rights Commission; amendments to the Federal Penal Code; amendments to the Code of Criminal Procedure, both for the Republic as a whole and for the Federal District; and amendments to the law that set up in the Federal District Tutelary Councils for Juvenile Offenders. Amendments to the Act for the Prevention and Punishment of Torture provide that a person who has been tortured has the possibility of obtaining compensation for the damage caused and that no confession obtained through torture shall be valid. The text of the Act for the Prevention and Punishment of Torture is attached (annex 5).

137. The Office of the Attorney-General of the Republic has been reorganized and progress is being made in improving the professional qualities of the Federal Criminal Investigation Service. Stricter measures have been introduced to protect persons taken into custody, to ensure that their families are informed and to prevent any type of torture, including disappearance.

138. The creation of a system of justice with a human face, where there is proper treatment of detainees and human rights are fully guaranteed, requires expansion of the capacity to respond adequately and a new impetus for the community service efforts of the Office of the Attorney-General of the Republic, in full cooperation with the population.

139. Respect for human rights is a matter of priority for the Federal Government. One of the latter's objectives, that guides all its action, is to guarantee full respect for the human rights of all Mexican citizens and foreigners in the Republic of Mexico.

140. The modern state governed by the rule of law may be understood as one that promotes and upholds principles of legality conducive to the proper application of individual and social guarantees. In Mexico's present stage of modernization, greater efficiency is required in the administration of justice so as to ensure that the law and the principles set forth in the Constitution are implemented.

141. Consequently, the Office of the Attorney-General of the Republic urgently needs to have a system that makes use of technological advances to lend greater clarity and transparency to the actions and procedures connected with its work. As part of the new phase of the Office's modernization, the Integrated Detainee Information and Care Programme (PIDE) was brought into operation on 25 September 1991, under the responsibility of the Directorate for Care of Detainees and Addicts.

142. The Directorate is the body responsible, inter alia, for the implementation of measures to:

(a) Develop legal machinery and tutelary and welfare arrangements for the care of persons involved in offences detrimental to health, especially addicts or persistent offenders who require medical treatment and not imprisonment, as well as peasants, indigenous or monolingual persons involved

in such offences and, in general, detainees whose circumstances include cultural backwardness, social isolation and extreme need, many whom are victims of their social environment;

(b) Prevent misconduct, irregularities and violations of rights and further humanize the work of guaranteeing due process of law;

(c) See to the proper application of the procedures for ensuring humane treatment in the administration of justice;

(d) Deal promptly with requests for information made by the community concerning detained persons;

(e) Establish statutory tutelary arrangements to facilitate the treatment and social rehabilitation of addicts;

(f) Coordinate efforts with the public, social welfare and private sectors in order to reduce the illicit demand for drugs;

(g) Direct, supervise and monitor the implementation of national programmes for the care of victims of offences, as well as addicts and detainees.

143. The programme is a flexible mechanism which ensures full respect for individual guarantees and contributes to the development of a more humane system of justice that fully guarantees decent treatment of offenders. The PIDE comprises a national system of information on detainees, as well as arrangements to provide care for and promote the individual guarantees of persons detained for federal offences, a confidential citizens' complaints system and an inter-agency coordinating mechanism for the care of addicts.

144. On 12 March 1992 the Attorney-General of the Republic set up the Comité Ciudadano Plural (CCP), which monitors the activities of the Attorney-General's Office and is made up of 10 former deputies and assemblymen appointed from the country's main political parties - Partido Acción Nacional (PAN), Partido de la Revolución Democrática (PRD) and Partido Revolucionario Institucional (PRI) - who are not simply guided by their political ideology. This Committee sees to it that the Office of the Attorney-General of the Republic operates within the law and serves essentially to defend human rights. Its members make periodic visits to the local offices of the Attorney-General to see that unlawful acts are not being committed by officers of the Federal Investigation Service.

145. The Committee also demands that thorough investigations be carried out and that the recommendations of the National Human Rights Commission be fully implemented. A national register of all the officers of the Federal Investigation Service has been compiled for the purpose of ensuring that, should any officer commit an offence, he can be traced easily and brought to justice.

146. The CCP inquires into the treatment of detainees and issues monthly reports to the Attorney-General of the Republic calling on him to impose penalties where this is deemed necessary. Its members give attention to

complaints from private citizens alleging human rights violations by officers of the Federal Investigation Service, without, however, encroaching upon the powers of the National Human Rights Commission.

147. This Committee is an effective body for bringing to light irregularities and proposing solutions. It is independent of the Office of the Attorney-General of the Republic and its members do not receive salaries from that Office.

148. In General Comment 7 [16], information is requested on measures of training and instruction of law enforcement officials. In that regard, article 2, sections I to IV, of the Federal Act for the Prevention and Punishment of Torture enumerate the measures which any State party must take in order to provide full education and information concerning the prohibition of torture in the vocational training of officials appointed to enforce the law, whether civil or military, as well as of medical personnel, public officials and other persons who may be involved in the holding in custody, interrogation or treatment of persons subjected to any form of arrest, detention or imprisonment.

Article 2

"The subsidiary bodies of the Federal Executive concerned with the administration of justice shall implement ongoing programmes and establish procedures to:

"I. Guide and assist the population with a view to ensuring strict observance of the individual guarantees of any person implicated in the commission of a criminal offence.

"II. Organize training courses for their staff in order to promote respect for human rights.

"III. Enhance the professional standards of their police corps.

"IV. Enhance the professional standards of the public services involved in the holding in custody and treatment of any person subjected to arrest, detention or imprisonment."

149. The National Criminal Science Institute (INACIPE) and the Federal Investigation Service Institute, both of which come under the authority of the Office of the Attorney-General of the Republic, have in the last three years implemented the following programmes:

(a) 1992 Programme of Work of INACIPE, which calls for raising the professional standards of the Federal Public Prosecutor's Office and of the experts appointed to the Office of the Attorney-General of the Republic, so that scientific and technical expertise can guide the investigation of offences and thus contribute to the eradication of torture. The 1992 Programme also contains a subprogramme on publications, with titles relating to human rights;

(b) Report on activities for 1991, which highlights action taken to promote the culture of human rights;

(c) Initial training programme for Federal Investigation Service officers, in which special emphasis is placed on the protection of human rights;

(d) Refresher training programme for Federal Investigation Service officers, with the same concern for the promotion of human rights;

(e) Federal Investigation Service induction programme, which likewise contains specific references to the protection of human rights;

(f) Penitentiary service technical training texts, legal Module I of which contains references to human rights and the penitentiary system;

(g) Penitentiary service technical training texts, legal Module I of which makes special reference to the Act for the Prevention and Punishment of Torture and to the United Nations Standard Minimum Rules for the Treatment of Prisoners;

(h) Arcana Imperi, Apuntes sobre la Tortura, which the INACIPE has continued to reproduce and disseminate since 1987 as a basic text for the fight against torture;

(i) Training manuals for the Federal Investigation Service, of which volumes 1, 2, 3, 4 and 5 refer specifically to the legal framework within which human rights are protected.

150. Concerning the second part of article 7, which states that no one shall be subjected without his free consent to medical or scientific experimentation, and with regard to the Committee's observation that no experimentation should be allowed in the case of persons not capable of giving their consent, the General Health Act states in article 103 that "in the treatment of a sick person, a physician may use new therapeutic or diagnostic methods where there is a well-founded possibility of saving the patient's life, restoring his health or alleviating his suffering, provided that he has the written consent of the patient, of his legal representative, if appropriate, or of his next of kin, without prejudice to compliance with the other requirements of this Act and other applicable legislation".

Item VI (a) of the list of issues: "Have there been any complaints during the reporting period about alleged torture or inhuman treatment and, if so, have such allegations been investigated by the authorities and with what results? Have there been any prosecutions under the Federal Act for the Prevention and Punishment of Torture since that Act came into force in 1986?"

151. As a proportion of all complaints of alleged human rights violations received since the establishment of the National Human Rights Commission, instances of torture ranked first in the initial six months, with 180 cases (13.4 per cent); in the next six months there were 266 cases (13.9 per cent); in the third six-month period, torture fell back to third place as a proportion of the total, with 156 cases (6.2 per cent); and in the fourth half-year period, it dropped to seventh place with 134 cases, accounting for 2.3 per cent of all complaints.

152. To date, 266 public servants - 110 federal, 151 local and 5 municipal officials - have been disciplined. Criminal proceedings were instituted in 95 of these cases.

153. The general cases in which the Federal Act for the Prevention and Punishment of Torture has been applied and in which criminal proceedings have been brought against the accused are reported by the special department of the Office of the Attorney-General of the Republic responsible for dealing with offences committed by public servants and enforcing special laws as follows:

A.P. 3666/FSP/91

Accused: Roberto Olivares Oropeza
Pascual Gutiérrez Minjarez
Sergio Hernández Ramírez
Perceo Díaz Castillo
Jaime Ochoa Rodríguez.

Offences: Torture, obstructing the administration of justice and submitting false official reports.

Accused: Beltrán Antonio Robles Hansen.

Offence: Obstructing the administration of justice.

Accused: Salvador Acosta Ortíz
Crecencio Abarca Rebolledo.

Offences: Obstructing the administration of justice and submitting false official reports.

Accused: Rogerio Olivares Oropeza
Pascual Gutiérrez Minjarez
Crecencio Abarca Rebolledo.

Offence: Making false and inconsistent statements in judicial proceedings.

A.P. 5442/FSP/91

Accused: Alejandro Aguilar Torres
Omar Olguín Alpizar
Alejandro Pestaño Montoya
Antonio Reyes Sarmiento
José Arnulfo Rivera Ahumada.

Offence: Aggravated homicide.

Accused: José Arnulfo Rivera Ahumada.

Offence: Torture.

A.P. 5452/FSP/91

Accused: Alejandro Cruz Guerrero
Jesús Fernando Rodríguez Pérez
Arturo Ruíz Medina.

Offences: Torture, abuse of authority, obstructing the administration of justice and usurpation of functions.

Accused: Alejandro Cruz Guerrero
Jesús Fernando Rodríguez Pérez.

Offences: Forgery and use of false documents, submitting false official reports, making false statements in judicial proceedings and concealment.

A.P. 5474/FSP/91

Accused: Marco Antonio Ramírez Carrera
Moisés Figueroa Ventura.

Offences: Abuse of authority and obstructing the administration of justice.

Accused: Moisés Figueroa Ventura
Francisco Alegre Reyes
Gustavo Castrejón Aguilar
Pablo Humberto Corona Romero
César López Siliceo Esquer Raygadas
Alvaro González Mejorada
Fernando Javier Arias Rodríguez
Juan Francisco Escutia Villalobos
Leonardo Díaz Leal Torres
Gustavo Manterola Morales.

Offence: Unlawful deprivation of liberty.

Accused: Javier Alvarez Chávez
Teodomiro Echeverría Urrutia.

Offences: Falsehood and concealment.

Accused: Francisco Alegre Reyes
Gustavo Castrejón Aguilar
Pablo Humberto Corona Romero.

Offence: Torture.

A.P.6703/FSP/91

Accused: Pascual Candelario Gutiérrez Minjarez
Rogelio Julio Olivares Oropeza
Rafael Antonio Lozano Gutiérrez.

Offences: Abuse of authority and torture.

Accused: Rafael Antonio Lozano Gutiérrez.

Offence: Obstructing the administration of justice.

154. Other preliminary investigations into allegations of torture are:

1. A.P. 5604/S/91

Offences: Torture, abuse of authority and other offences.

Informants: Camilo Beltrán Gastélum et al.

Alleged perpetrator: Mario Alberto González Treviño.

Referral: 27 September 1991 to Federal District Criminal Court No. 10.

2. A.P. 6688/91

Offences: Torture, bribe-taking and other offences.

Informants: Guadalupe Zazueta Calderón et al.

Alleged perpetrator: Mario Alberto González Treviño.

Referral: 17 December 1991 to Federal District Criminal Court No. 10.

3. A.P. 6596/D/91

Offence: Torture and other offences.

Informant: Luz Gabriela López Ortega.

Alleged perpetrators: Juan Manuel Pozos García
Sergio Camarillo Cuellar
Jorge Caballero Carrera
Argelia Gabaldón Villuendas (M.P.F.)

This case is pending.

Item VI (c) of the list of issues: "Please provide additional information concerning the use of corporal punishment under articles 24 and 56 of the Penal Code. Please comment on the compatibility of resort to that procedure with article 7 of the Covenant."

155. Article 24 of the Penal Code provides for the following penalties and security measures:

(1) Imprisonment;

(2) Non-custodial or semi-custodial measures and community work;

(3) Internment or non-custodial measures applied to persons who are not chargeable and persons who are habitual consumers of or are addicted to drugs or psychotropic substances;

(4) Internal exile;

(5) Prohibition of visiting certain places;

(6) Fine;

(7) Confiscation of instruments, objects and proceeds of the offence;

(8) Warning;

(9) Summons;

(10) Provision of security for good behaviour;

(11) Suspension or deprivation of rights;

(12) Disqualification, dismissal or suspension from office or employment;

(13) Special publication of the sentence;

(14) Supervision by the authorities;

(15) Suspension or dissolution of societies;

(16) Tutelary measures for minors;

(17) Confiscation of assets resulting from unlawful acquisition of wealth.

156. Generally speaking, magistrates and courts will take the following circumstances into account in imposing the penalties specified for each offence:

(a) The nature of the act or omission and of the means used to carry it out and the amount of damage caused and danger incurred;

(b) The age, education, intellectual attainment, habits and previous conduct of the perpetrator, the motives which led or determined him to commit the offence and his financial situation;

(c) The special conditions existing when the offence was committed and anything else of note in the offender's background and personal situation, such as family, friendly or social relationships; as well as the status of the injured parties and the circumstances of time, place, method and opportunity which reveal to what extent he is dangerous.

157. The magistrate must, to the extent necessitated by the case, acquaint himself directly with the perpetrator, the victim and the circumstances of the offence. He shall also seek expert opinions with a view to familiarizing himself with the personality of the defendant, and any other factors relevant to the application of penalties.

158. In the light of the foregoing, a prison sentence may, at the magistrate's discretion, be replaced by another penalty as follows: (1) when the sentence does not exceed one year, by a fine or community work; (2) when the sentence does not exceed three years, by non-custodial or semi-custodial measures.

159. This substitution may apply if the defendant meets the following requirements:

(a) It is the first time that he has voluntarily committed an offence and he has given evidence of good conduct both before and after; and

(b) His personal background or honest way of life, as well as the nature, form of and motives for the offence allow the presumption that he will not repeat it.

160. If the defendant considers that at the time of his sentencing he satisfied the requirements for benefiting from substitution or commutation of his penalty, and it was not granted owing to his own or the judge's inadvertence, he may apply to the court for it to be granted, and the matter will be raised with the trial judge.

161. Article 56 of the Penal Code provides:

> "Article 56. If a new law comes into force between the commission of an offence and the expiry of the penalty or security measures, the terms most favourable for the person accused or sentenced shall apply. The authority hearing the case or executing the sentence shall automatically apply the most favourable law. If the defendant has been sentenced to a minimum or maximum term, the reduction applied shall be that giving the arithmetical mean in accordance with the new law."

162. This provision is based on article 14 of the Constitution which states that: "No law shall be given retroactive effect to the detriment of any person".

163. If this provision is interpreted <u>contrario sensu</u>, it implies that, as article 56 of the Penal Code indicates, when a law is promulgated which may benefit a person who has been charged, convicted or sentenced, the authorities must apply it on their own initiative. If under this new law the defendant, instead of a prison sentence, could receive only a non-custodial sentence, action must be taken in accordance with the rules laid down by law for such purposes, as well as those referred to above.

164. Article 117 of the Penal Code further states that:

> "A law which abolishes or modifies a category of criminal offence annuls the criminal proceedings or penalty provided for it, in accordance with the provisions of article 56."

165. From the foregoing it will be seen that clear and specific rules and procedures are laid down in Mexican law consisting of deprivation of freedom for application of the physical penalty and that the execution of the penalty may not be arbitrary.

166. It is pointed out that these provisions are fully compatible with article 7 of the Covenant, since the application of the penalties is based on criteria related to the seriousness and the circumstances of the offence and the nature of the offender; the types of penalty applicable to each offence have been established and the form of penalty is in keeping with a civilized society subject to the absolute rule of law, as is the case in Mexico. It is therefore clear that none of the penalties or security measures referred to in the Penal Code can be described as cruel, inhuman or degrading.

167. It must be added that article 22 of the Constitution expressly prohibits the use of torture as a means of a repressing delinquency. Furthermore, as has already been mentioned, there is a Regulatory Act which establishes the penalties to which those who inflict torture are liable.

Article 8

168. The Political Constitution of the Republic of Mexico, in article 14, lays down the legal bases for the prohibition of slavery, which was abolished during the Independence Movement. There is therefore nothing further to add to what was said in the earlier reports on this subject.

169. Following the instructions in the Manual on Human Rights Reporting, the information furnished in earlier reports is expanded and updated below.

170. Article 5 of the Constitution has been amended to provide as follows:

> "Only the following public services shall be obligatory, subject to the conditions set forth in the respective laws: military service and jury service, as well as the performance of municipal office and of an office held through direct or indirect popular election. Duties in relation to elections and the census shall be compulsory and unpaid. However, those which are performed in a professional capacity shall be remunerated as provided for in the Constitution and the relevant laws. Professional services of a social character shall be compulsory and paid in accordance with the provisions of the law and subject to the exceptions therein laid down.
>
> "The State may not permit the execution of any contract, covenant or agreement having as its object the restriction, loss or irrevocable sacrifice of the liberty of person for any reason."

171. No information is available on situations such as those raised by the Committee in its comment on article 8 concerning prostitution, the drug traffic or psychological abuse.

172. The Committee indicates in the Manual that information on existing measures concerning forced labour needs to be expanded.

173. Work performed in prison is not regarded as a penalty but as a means of social rehabilitation, together with training and education, as specified in article 18, paragraph 2, of the Constitution which states that: "The Federal and State Governments shall organize the penal system within their respective jurisdictions on the basis of work, training for work and education as a means of ensuring the social rehabilitation of the offender."

174. Article 5 of the Constitution in its third paragraph states that no one may be compelled to render personal services without due remuneration and without his full consent, excepting labour imposed as a penalty by the judiciary, which shall be governed by the provisions of clauses I and II of article 123 of the Constitution, which refers to a maximum of eight hours for day work and seven hours for night work.

175. Where prison work is concerned, the Act Establishing Minimum Standards for the Social Rehabilitation of Convicted Persons states in article 10:

"Article 10

"The assignment of prisoners to work shall take account of their wishes, vocation, ability and training for work under conditions of freedom, as well as of their regime and the prison's possibilities. Prison work shall be organized after consideration of the characteristics of the local economy and particularly the local demand, so as to ensure a matching of the local demand and the prison's output, with a view to the economic self-sufficiency of the establishment. To this end a work and production plan shall be prepared and submitted to the State Government for its approval and, if so provided in the relevant agreement, that of the General-Directorate for Coordinated Services.

"Prisoners shall pay for their keep in the prison by deduction from what they receive for the work they perform. Their keep shall be calculated on the basis of deductions amounting to a fair proportion of the remuneration, which shall be standard for all the prisoners in the particular prison. The rest of the work pay shall be distributed as follows: 30 per cent as compensation for the injury done, 30 per cent for the maintenance of the prisoner's economic dependents, 30 per cent to constitute the prisoner's savings fund and 10 per cent for the prisoner's minor expenses. If the sentence does not include compensation for injury or if this has already been paid, or if the prisoner's dependents are not in a situation of need, the various proportions shall be applied equally for the purposes mentioned, with the exception of the last-mentioned.

"No prisoner may exercise authority or have any employment or post within the establishment, except in institutions which for remedial purposes have a self-governing system."

176. It should be mentioned that, in the Federal District, the Mexican system of social rehabilitation provides for social reintegration through employment administered by a Board of Trustees which is independent of the Ministry of the Interior and deals with former prisoners who have been released, as well as minor offenders, with a view to their resumption of employment, and organizes and monitors community work performed as an alternative to prison sentences or fines. This Board of Trustees arranges the continuation of training initiated in the prisons. The Board's intervention begins on the date of release and continues until the released prisoner is back at work and with his family. The activities of this Board serve as a model in the States of the Federation.

177. Military service is fully regulated by article 5 of the Constitution and the Military Service Act and its Regulations, which state that military service is compulsory for all Mexicans, whether by birth or by naturalization, although reasons for total or partial exception do exist, on the grounds of physical, mental or social disabilities. The military service obligation may be fulfilled early by young males from the age of 16.

178. A five-year postponement of compulsory military service may be granted to students, to those living abroad, to those serving a sentence in the year of their eighteenth birthday and those who have to support a family.

179. Those who obtain a black ball in the draw shall fulfil their military service obligation through availability, without having to present themselves physically for service; those who obtain a white ball and are on the surplus list once the authorized quota for the training centres has been filled, those residing more than 20 km from the training centre boundaries and those residing abroad, Mennonites and those who only pass the medical exam conditionally, are not required to serve.

180. To date there have been no cases of conscientious objectors to compulsory military service, since Mexicans are conscientious about performing their military obligations as citizens and there is no legislation in this regard.

181. Regarding service in the event of an emergency, only the Department of National Defence has a programme to deal with catastrophes threatening the life of communities, as has been the case in various natural disasters.

Article 9

182. With reference to the points raised concerning this article, the information provided in the previous report remains valid.

183. With reference to the Committee's General Comment 8 [16], in Mexico programmes for the rehabilitation of drug addicts, juvenile offenders and persons suffering from mental illness who are in detention are the responsibility of the health sector and of the Ministry of the Interior. The measures being taken have two main objectives: *on the one hand, modernization* of the social rehabilitation centres, the identification of criminal organizations operating in them, control of drug traffic and consumption in

prisons and tutelary councils, a rehabilitation system for addicts in prison, standards for systems of social prevention and rehabilitation and high security supervision in the social rehabilitation centres.

184. They also aim at ensuring more humane handling of addicts, the development of models and standards for a complete care system, the creation of systems for dealing with addiction in the individual States, the preparation of an inventory of institutions for the rehabilitation of adults and minors, the differentiation of approaches as regards prevention and education and treatment and rehabilitation, and, lastly, the identification and guidance of addicts.

185. In order to protect the rights of juvenile offenders, vagrants, mentally handicapped persons, drug addicts and immigrant detainees, a number of measures have been taken.

186. In recent years various problems have become increasingly acute in the large cities and particularly in the Federal District. These problems include juvenile offenders, vagrants and drug addicts. The authorities have had to take measures designed to help the juveniles, measures necessitated by the just demands of society that there be an end to the abuse of minors by individuals and authorities, in accordance with the Convention on the Rights of the Child. This has given rise to a number of activities undertaken by the Federal District authorities, who realize the seriousness of the problem of leaving millions of children to wander the streets of the city and are concerned to give them both medical and legal aid in order to enable them to be reintegrated into society. The following are the most important of these activities.

187. When the first Support Centre for Working Children was inaugurated in Mexico City, a programme for minors was set up that included training in productive work, the services of a labour exchange and advisory services for and defence of minors in labour matters. The Department of the Federal District (DDF) made use for this purpose of some of its administrative units, such as the General Secretariats for Social Development and for Protection and Welfare, and their various officials.

188. The Government of the Federal District has set up a registration system to identify street children. This enables the needs, interests and expectations of these children to be identified and helps to ensure for them full and systematic attention.

189. In this context it was necessary to establish a basis for cooperation between the various offices of the Government of Mexico City in the implementation of priority programmes for the safety, survival and development of street children.

190. The DDF and the Office of the Government Procurator of the Federal District have therefore undertaken certain joint activities to provide these children with efficient and timely attention, while respecting their human rights and individual guarantees. These include the signing of an agreement which establishes a basis for cooperation for the protection of the human rights and preservation of the guarantees of street children.

191. Under this agreement, the DDF and the Office of the Government Procurator laid the bases for cooperation in coordinating and carrying out the activities incumbent on them within their respective jurisdictions. The Government Procurator's Office, under its Organic Law (article 20, sections I and II) and Internal Regulations (article 19) is required to supervise the legality of action taken within its jurisdiction. In the specific case of street children, the Government Procurator's Office is able to take decisions and make arrangements to resolve the legal situation of these children until they are fully integrated into the social environment that best suits them.

192. The DDF is responsible for the government of the Federal District, pursuant to article 73, section VI, paragraph 1, of the Political Constitution of Mexico which states that: "The Federal District shall be governed by the President of the Republic, through the organ or organs specified in the relevant law", in this case the DDF and the Government Procurator's Office. On this basis, the two bodies assist each other in guaranteeing the human rights and safeguarding the moral and physical integrity of street children, and providing support to improve their conditions of life.

193. To this end the Government Procurator's Office has issued Decision A/032/89 setting up an agency of the Public Prosecutor's Office to specialize in matters relating to minors who commit or are victims of offences. This agency reports directly to the General Directorate of the Public Prosecutor's Office for family and civil matters. Its purpose is to provide the most appropriate overall bio-psycho-social care aimed at integrating these young people into the most favourable social environment. If an official of the Public Prosecutor's office is informed that a juvenile, identified as a street child, has committed an offence against the police or public order, or is involved in consuming or dealing in psychotropic substances, and if the case is not appropriate for the Tutelary Council for Juvenile Offenders, the child is to be given the bio-psycho-social and psychotherapeutic support needed to ensure that he is directed to the most appropriate DDF centre.

194. The Department of Security and Highways, pursuant to article 3, section VI, of its Organic Law, is basically empowered to deal with matters relating to public security and highways, to train officials responsible for enforcing this provision, to give guidance and support, and to provide friendly, fair and caring treatment which will guarantee street children their rights.

195. It should be noted that the officials of the General Secretariat for Protection and Welfare must under no circumstances and on no account intervene in matters relating to the children in question unless prior instructions are given by their immediate superiors, at the request of the injured party or at the time of commission of the offence. Any person who infringes this provision is liable to the penalties provided by the relevant laws, without prejudice to any other penalty that he may incur.

196. The DDF, according to its requirements, policies, internal organization and facilities, must take responsibility for street children referred to it by the administrative authorities. Through the Directorate for Social Protection, it must provide them with food, lodging, clothing, medical

services, job opportunities and legal guidance, and it must encourage the coexistence of such children through establishment of work teams so as to integrate them into the social context most favourable for their development.

197. The parties to these arrangements must coordinate their activities so as to take immediate charge of street children who require assistance from private institutions, hospitals or centres for the treatment of drug-addiction.

198. Pursuant to decision No. A/0024/90, two new agencies of the Public Prosecutor's Office have been set up to specialize in matters relating to minors. They are directly responsible to the General Directorate of the Public Prosecutor's Office for family and civil matters.

199. An instruction issued by the Government Procurator's Office of the Federal District concerning the action to be taken by its officials in cases involving minors specifies that all documents, photographs and other data relating to prior investigations involving minors must be kept in the archives of the specialized units of the Public Prosecutor's Office, and that case files relating to minors must be held in the investigating agencies and in the office's general archive.

200. Persons under 14 years of age suffering from a disability or in a situation of conflict, injury or danger who require immediate attention and social protection, must, even if no prior investigation has taken place, be referred by the personnel concerned to the General Directorate for Community Services. When they have a connection with a prior investigation, they must be brought before the General Directorate for the Monitoring of Prosecutions.

201. Mentally disturbed persons are sent to the certifying magistrate who issues a summons to whoever is responsible for the patient's care. If no one is responsible, the person is transferred to a temporary home.

202. Vagrants and persons under the effects of stimulants must, at the request of the affected party, or if found committing a misdemeanour or an offence, be referred to the certifying magistrate or the Public Prosecutor's Office depending on the nature of the arrest.

Item VI (b) of the list of issues: Have there been any complaints about the arbitrary detention of peasants in the course of land disputes and, if so, have such complaints been investigated and with what results?"

203. The National Human Rights Commission, on the basis of its powers under article 2 and article 3, sections II and VI, of its Constituent Decree (annex 6) and under article 5, sections III and IV, of its Regulations (annex 7), has drawn up an Indigenous Groups Programme, with a view to asserting the human rights of indigenous people.

204. The Programme provides for the conduct of three basic activities among the groups and communities concerned: (1) the publicizing of human rights; (2) provision of information on the aims and functions of the National Human Rights Commission; and (3) direct receipt of complaints of human rights violations.

205. The publicizing of human rights and of the aims and functions of the National Human Rights Commission has been carried out through radio programmes in various indigenous languages and through meetings with members of the communities to which visits are made.

206. Most of the complaints received are the result of:

(a) Land disputes between communities, concerning such matters as absence of defined boundaries, overlapping plans and superimposed Presidential Decisions;

(b) Land disputes between communities and individuals, involving encroachment on and despoiling of communal land;

(c) Delays and irregularities in agrarian proceedings, failure to implement Presidential Decisions, overlapping of plans, failure to carry out technical work and to deliver final plans, basic files and certificates of land rights.

207. Other complaints received concern irregularities and delays in criminal procedures, such as illegal arrests, failure to comply with the relevant provisions of the Constitution, abuse of authority, torture, failure to institute criminal proceedings and failure to execute sentences. It is pointed out, however, that many of these complaints are directly related to local land disputes. For example, some of the complaints concerning abuse of authority or failure to initiate criminal proceedings, in connection with offences such as homicides, injuries, plundering, damage to the property of others and theft or destruction of crops carried out against the indigenous communities, originate in land disputes among these communities or with individuals.

208. Of the total number of complaints received in the Mixe area, only 22 came within the jurisdiction of the National Human Rights Commission and 19 are currently being dealt with.

209. One of the complaints received ended with the release of the complainants and a further two complaints gave rise to recommendations 78/91, dated 9 September 1991, in the case of Textepec Prison, Oaxaca, addressed to the Governor of the State of Oaxaca, and 103/91, dated 4 November 1991, in the case of the Community of San Juan Jaltepec de Candayoc, municipality of Cotzocon, District of Mixe, Oaxaca.

210. Because of the close link between land disputes and offences the National Human Rights Commission was obliged to undertake a study of the social problems of the communities involved, in order to identify the most practical solutions. This study showed that in some cases the basic problems were not resolved simply by the arrest, remand and sentencing of those allegedly responsible for committing specific offences; it was rather a question of finding a solution to the basic problem, in this case, the land conflict.

Item VI (e) of the list of issues: "What is the maximum period for which persons may be detained pending trial?"

211. The maximum period for which a person may be detained pending trial is 72 hours. During this preliminary investigation period, the court is empowered and required to determine the legal situation of the person concerned and may issue the following: detention order; committal order; release order for lack of evidence for trial; or full release order.

212. This general rule is contained in article 19 of the Constitution, which lays down that: "No detention shall exceed three days, unless justified by a detention order ...".

213. Once the detention order or the committal order has been issued, the judge must declare the proceedings open, enabling the parties to provide the relevant evidence, and formally initiating proceedings.

Item VI (f) of the list of issues: "How quickly after arrest is a person's family informed and how soon after arrest can a person contact his lawyer?"

214. During the first 24 hours of detention an arrested person is entitled to telephone to his family or to a lawyer in order to arrange for his counsel to be present when he is brought before the Public Prosecutor's Department and the judge.

215. The period of pre-trial detention is reduced from 72 to 24 hours if the detainee is to make a statement before the Public Prosecutor's Department.

Article 10

216. In accordance with the provisions of article 10 of the Covenant and in response to general comment 9 [16], since its establishment the National Human Rights Commission (CNDH) has introduced, as a matter of priority, the Programme for Mexico's prison system. Thus, in its two years of existence, CNDH has carried out 200 visits to prisons in various States of the Republic.

217. In view of the expectation of prompt action by the ombudsman, attention has been given, without any delay or formality, to numerous complaints and oral petitions, including some made by telephone, concerning serious, threatened or actual violations of the human rights of detainees, threats to their physical integrity or life, deprivation of food, torture and ill-treatment. During its first year and a half of activity CNDH received information on 13 cases in which the plaintiffs obtained satisfaction.

218. Supervisory visits and a survey of prisons have provided information on issues of fundamental importance to the human rights of detainees. The most noteworthy are the following:

(a) Facilities: Most places of detention are overcrowded; there are insufficient facilities to achieve the social rehabilitation of detainees through work, or to provide appropriate training and education; food is

inadequate; there are no special premises for accommodation and treatment for the mentally ill; there is a shortage of sports and medical facilities and a serious shortage of drinking water;

(b) Services: Irregularities have been discovered in respect of conjugal visits and CNDH is pursuing its investigation of this question;

(c) Treatment: There are disturbing shortcomings as regards the provision of psychological assistance;

(d) Legality: There are serious irregularities as regards the separation of detainees. CNDH inspectors have found convicted, unconvicted and mentally-deficient prisoners held together. The provisions of the Constitution are not complied with and the institution of court-appointed counsel is ineffective;

(e) Disciplinary regime: Cases of ill-treatment have been discovered as well as a poor human rights culture within prisons;

(f) Warders: Their training is inadequate. Their wages are very low.

219. As the Constitution stipulates that the rights of offenders must be respected and that they must be reintegrated into society, CNDH has made the following proposals to the authorities responsible for prisons:

(1) Overcrowding of prisons should be ended by: (a) discriminalizing minor offences; relaxing the conditions for bail and extending the possibilities of alternative forms of punishment so that a prison sentence is handed down only if there is no alternative; (b) reducing the backlog of cases. Court-appointed counsel lack proper training, their salary is low and their work overwhelming; the universities, the Bar and the Bar Association should provide the poor with an effective defence; (c) Capacity should be increased without any substantial increase in public expenditure. One possibility is to obtain resources by selling the goods involved in or the proceeds from the offence;

(2) Decent facilities should be provided;

(3) Prisoners should be released in a timely and expeditious manner through the use of a computerized registry;

(4) Offenders should receive individualized legal treatment, after classification on the basis of a multidisciplinary examination, in order to rehabilitate them through voluntary paid work, vocational training and education. To achieve this, the following measures are necessary: (a) the establishment, through agreements with private enterprise, of manufacturing industries with outlets onto official markets and in which at least the minimum wage is paid and labour rights are observed. This would allow prisons to become self-sufficient; (b) the provision of education to permit the development of individual capacities. Facilities for primary and secondary studies should be extended by the provision of medium-level and higher education. Further agreements should be drawn up with the Ministry of Education (SEP) and other suitable institutions; attention should be devoted

to other factors contributing to rehabilitation: adequate food, which implies considerable, albeit unavoidable expenditure; effective medical care for persons who are not criminally responsible and cooperation with the health sector in treating cases whose complexity is beyond the means of prisons; proper observance of leisure time periods and the promotion of sport, as well as contact with the outside world. Family visits and conjugal visits must be encouraged and they must be long enough and the conditions thereof adequate to ensure full and effective social life; telephone and written communications should be facilitated and religious services should be provided.

(5) The power of criminal gangs which take advantage of corruption, inadequate resources or carelessness to assume authority should be brought to an end. The members of such gangs and person who have been involved in large-scale drug trafficking should be relocated in different prisons. If a criminological examination finds this to be necessary, they should be held in high-security prisons.

(6) Specialized civilian personnel, independent from the police authorities, should be selected and trained.

(7) A campaign should be undertaken to end corruption and abuse of power. Channels and machinery should be set up to facilitate the denunciation and punishment of corruption and abuse of power. A set of standard regulations that specifically invokes the duty to respect human dignity and defines a form of treatment that allows for the social rehabilitation of detainees is being prepared. Only by this means will the principle of legality be observed. Proper training and salaries are essential. A leaflet giving advice on avoiding corruption in prisons has been prepared.

Item VI (d) of the list of issues: "Are the United Nations Standard Minimum Rules for the Treatment of Prisoners complied with and are the relevant regulations and directives known and accessible to prisoners?"

220. The United Nations Standard Minimum Rules for the Treatment of Prisoners are embodied in Mexico's internal legislation, although they are not always known to prisoners. It is common for the recommendations by CNDH on a particular prison to indicate the need to inform detainees of the internal regulations. A set of standard regulations that includes the minimum rules, and generally envisages a regime reconciling human rights with prison security is being proposed for the country as a whole.

221. The proposed standard regulations include the obligation for the prison authorities to grant the most generous facilities of access and supervision to human rights bodies, as mentioned in article 102, paragraph B of the Constitution.

222. The National Human Rights Commission has issued a Basic Information Manual for Prison Personnel to provide information on human rights in prisons based on the commitments entered into under the Covenants.

223. In addition, the rights of prisoners and of their relatives have been publicized in two leaflets: a "Guide on visits to persons held in detention centres in the Federal District" and "Advice on avoiding corruption in prisons", which has been given national distribution.

Item VI (g) of the list of issues: "Please provide information on detention in institutions other than prisons and for reasons other than crime (e.g. in psychiatric institutions)."

224. The two main bodies which care for destitute people and people with psychiatric problems are the Fire Brigade, nationwide, and the Rescue and Medical Emergency Service (ERUM), in the Federal District.

225. It is the responsibility of ERUM to provide citizens with the necessary practical assistance for rescue operations; it also provides emergency medical care in case of disasters or accidents. Its manifold functions include supporting the welfare campaigns carried out by the Federal District Department for the destitute and derelicts on the public highway.

226. These two organizations are thus responsible for channelling the destitute and the mentally ill to institutions other than prisons.

Article 11

227. The information provided to the Committee in the previous report remains valid: nevertheless, it should be recalled that article 17 of the Constitution stipulates that no one may be imprisoned for debts of a purely civil nature.

Article 12

228. The previous report provided a detailed description of Mexico's legislation concerning freedom of movement, as regards both nationals and aliens. It should be added however, in view of the Committee's comments, that no restrictions apply to movement by nationals in order to take up residence, leave the country or return to it; in the last-mentioned case they are required to give due proof of their nationality and the rule does not apply to persons included in the categories of Mexicans and aliens covered by article 74 of the General Population Act, which states:

> "Article 74
>
> No one may provide employment to foreigners unless they have previously established that they are lawful residents in Mexico and unless specific authorization to provide the service in question has been obtained."

Referring to Mexico's second periodic report, the Committee made the following comment in connection with this article:

Item VIII (b) of the list of issues: "In the light of the Committee's general comment No. 15 (27), please provide necessary additional information on the position of aliens in Mexico."

229. As far as article 12 of the Covenant is concerned there are a number of measures that are worth noting in Mexican legislation and practice vis-à-vis aliens in respect of migration:

(a) The July 1990 amendments to the General Population Act, the most noteworthy of which are the following:

(i) The addition to article 7: "In exercising these powers, the Ministry of the Interior shall ensure respect for human rights and, in particular, for the integrity of the families of those subject to this Act.";

(ii) The addition to article 42, section VI of the Act, classifying refugees as Migrants, a status that was not recognized by the legislation on migration;

(iii) The updating of chapter VII, "Penalties", of the Act in order more severely to punish traffickers in migrants.

(b) As regards Mexico's practice in the field of migration, attention is drawn to the following measures:

(i) Measures to improve the accommodation, food, medical services, guidance and advice given to aliens in preparation for their return to their own country;

(ii) Streamlining of administrative procedure for the repatriation of aliens in coordination with the diplomatic and consular authorities of the governments concerned;

(iii) Tighter controls over officials responsible for inspecting and supervising aliens who enter into and reside in Mexico, in order to avoid undesirable conduct on their part;

(iv) Application of the Programme to modernize the migrants' services, so as to provide aliens with a high-quality service.

230. As regards the status of aliens in Mexico, a better balance has been struck between implementation of the policy on migration that is aimed at preserving national sovereignty and security, encouraging priority migratory flows (tourists, investors, technicians, scientists, etc.), and that designed to strengthen the principles of international solidarity (refugees and political exiles).

Article 13

231. The Government of Mexico wishes to recall that for historical reasons justifying the powers conferred by article 33 of the Constitution on the Federal Executive it entered a reservation in respect of article 13 of the Covenant when it deposited its instrument of accession to the Covenant, as was mentioned in the previous report (see, CCPR/C/46/Add.3, paras. 255-262).

Item VIII (a) of the list of issues: "With reference to paragraph 255 of the report, please explain how the provision of article 33 of the Constitution relating to the immediate expulsion of undesirable aliens is currently applied in practice."

232. Article 33 of the Constitution applies to aliens who lack the qualifications specified in article 30 and who are simply interfering in Mexico's politics. It is emphasized that for 30 years the Act has not been applied to any aliens. This is in line with Mexico's tradition of political asylum for the victims of persecution.

233. Should the Act be applied, responsibility for requesting that a foreigner who has interfered in Mexico's internal affairs leave Mexico for the country of his choice would lie with the Government Directorate-General of the Ministry of the Interior.

Article 14

234. With reference to general comment 13 [21] relating to this article, the following observations are intended to supplement the information provided in Mexico's previous report.

235. Article 49, paragraph 1, of the Constitution establishes the independence of the judicial branch from the other branches: the text provides that "The Supreme Authority of the Federation shall be divided, for the purpose of its exercise, into the Legislative, Executive and Judicial branches."

236. Article 94 of the Constitution specifies the organizational structure of the Mexican judiciary: it is worth quoting, although it was mentioned in the earlier report: "The exercise of the Federation's judicial authority shall be vested in a Supreme Court of Justice, in collegiate courts, unipersonal circuit courts and district courts."

237. The same article states that the Supreme Court shall determine the number, division into circuits, and the territorial and subject matter jurisdiction of the above-mentioned courts.

238. An important point to note is that the competence of the federal courts, their operation and the responsibilities of their officials are governed by specific laws, in compliance with the guidelines of the Constitution.

239. The Constitution also lays down the requirements that have to be met by the judges of the above courts: in the case of judges of the Supreme Court,

who are appointed by decision of the President of the Republic (the Executive Branch) and approved by the Senate (the Legislative Branch). The requirements are set out as follows:

"I. He shall be a Mexican citizen by birth, fully entitled to exercise his political and civil rights;

"II. He shall be no more than 65 years of age nor less than 35 years of age on the day of his appointment;

"III. On the day of his appointment he shall have been in possession, for a minimum of five years, of his professional qualification as a lawyer, issued by the lawfully authorized authority or corporation;

"IV. He shall be of good character and shall not have been convicted of any offence punishable by imprisonment for more than one year; however, in the case of theft, fraud, forgery, abuse of confidence or any other offence which gravely damages his public reputation, he shall be disqualified from appointment regardless of the penalty;

"V. He shall have resided in Mexico for the previous five years. However, an absence of less than six months while in the service of the Republic shall not count in the calculation of this period."

240. The first paragraph of article 97 of the Constitution provides as follows:

> "Circuit court and district court judges shall be appointed by the Supreme Court of Justice. They shall meet the requirements laid down by law and shall remain in office for six years, after which, if they are re-appointed or promoted to higher office, they may be removed from office only under the terms of Title Four of the Constitution."

241. The first paragraph of article 32 of the Organization of Justice Act lays down the following requirements for appointment as a circuit court judge:

> "Appointees shall be Mexican by birth, be fully entitled to exercise their rights, be over 35 years of age and in possession of a lawfully awarded degree in law and be of good conduct, and they must have at least five years' professional experience."

Regarding the duration of their appointment the Act further states that

> "they shall obligatorily retire from office on reaching the age of 70, for which purpose the Supreme Court of Justice, sitting in full, shall, at the request of the party concerned or of its own motion, issue the appropriate declaration."

242. Article 49 of the same Act lays down the requirements for appointment as district judge and the duration of office:

"Appointees shall be Mexican by birth, fully entitled to exercise their rights, over 30 years of age and in possession of a lawfully awarded degree in law, of good conduct and they must have at least three years' professional experience. They must obligatorily retire from office on reaching the age of 70, for which purpose the Supreme Court of Justice, sitting in full, shall, at the request of the party concerned or of its own motion, issue the appropriate declaration.

243. Mexico's Organization of Justice Act also regulates the appointment and functions of circuit and district court judges as follows:

"Article 12. In addition, the following shall be the functions of the Supreme Court of Justice, sitting in full:

...

XXIII. To appoint circuit and district court judges, without specifying at the time of appointment the territorial jurisdiction within which they are to exercise their functions;

XXIV. To assign the territorial jurisdiction within which circuit and district court judges are to exercise their functions and, in the case of the latter judges, in places where there are two or more courts, the court on which they are to serve;

XXV. Temporarily to change the seat of circuit and district courts, where this is considered desirable in order to provide the best service to the public;

XXVI. To transfer judges from one circuit to another and from one district to another and, in the case of district court judges, to courts with different subject-matter jurisdiction, in places where there are two or more courts, provided this is necessary for administrative purposes or there are sufficient and substantiated grounds for the change; ..."

"Article 100. In filling any circuit and district court judge vacancies that occur due regard shall be had to the capability and aptitude of the applicants. In the case of circuit court judge vacancies, preference shall be given, the above requirements being equally satisfied, to district court judges who have been reappointed pursuant to article 97 of the Constitution. In exceptional cases vacancies may be filled by persons whose reputation, competence and background fits them for such posts, despite their not having served on the Federal Judiciary."

244. In order to ensure the impartiality and independence of the representatives of the above-mentioned courts, article 101 of the Constitution states that:

"Judges of the Supreme Court of Justice, circuit and district court judges and the respective court clerks may under no circumstances accept or hold any federal or State employment or office or private employment,

with the exception of unpaid posts in scientific, educational, literary or charitable associations. Infringement of this provision shall be punished by dismissal."

245. Finally, for a circuit or district court judge to be dismissed the provisions of Title Four of the Constitution, concerning the responsibilities of public servants must be observed, as well as the provisions of the relevant enabling legislation, the Federal Act on the Responsibilities of Public Servants.

246. With regard to paragraph 7 of General Comment 13 [21], concerning the presumption of innocence of persons accused of an offence, we confirm the information furnished in Mexico's second report: article 247 of the Code of Criminal Procedure states that "an accused person may be convicted only if it has been proved that he committed the offence with which he is charged."

247. A person may be liable to criminal proceedings if there is evidence (proof) to indicate his guilt, but he may not be convicted until it has been proved that he has committed an offence.

248. As regards paragraphs 8, 11 and 13 of the same General Comment of the Committee, article 9 of the Federal Act for the Prevention and Punishment of Torture sets forth the minimum guarantees which must be observed during criminal proceedings: "No probative value whatsoever shall be placed on a confession made to the police, to the Public Prosecutor's Department or to a judicial authority without the presence of the accused person's defence counsel, or confidant and, where appropriate, interpreter."

Item VII (a) of the list of issues: "Please clarify the reference in paragraph 286 of the report to 'certain traditional principles and procedures concerning preventive action and access to and administration of justice' which have been rendered inoperative and ineffective."

249. In 1991 reforms, largely corresponding to General Comment 13 [21], were introduced in the various principles and procedures.

250. The following texts were amended: the Act for the Prevention and Punishment of Torture; the National Human Rights Commission (Organization) Act; the Federal Penal Code; both the Federal and Federal District codes of criminal procedure and the Act establishing the Tutelary Council for Juvenile Offenders in the Federal District.

251. As amended, the Act for the Prevention of Torture establishes the principle that evidence obtained by unlawful means is invalid and prescribe for torturers punishment commensurate with the seriousness of the offence, with the aim of putting an end to impunity. The objective has been to establish a national rule, applicable to the Federation as a whole and to individual States, according to which anyone responsible for torture also incurs civil liability for damage and injury.

252. The amendments to the National Human Rights Commission (Organization) Act have made the Commission a non-governmental public body enjoying legal status

and having its own assets. Provision has also been made for the Senate of the Republic to participate in appointing the chief officials and counsellors of CNDH.

253. Other amendments are designed to benefit, inter alia, minor offenders, through the proposed decriminalization of types of conduct previously punishable by imprisonment and which, in view of their trivial nature, should never have been classified as crimes but rather as misdemeanours.

254. Attention is also drawn to the amendment of the law aimed at adjusting the various categories of migrant to the current situation. The category of "refugee" was introduced in order to protect the life and safety of aliens who leave their country because of social unrest there.

Item VII (b) of the list of issues: "Please provide information concerning any major reforms that may have been adopted under the current five-year National Development Plan (see para. 287 of the report)."

255. The results achieved by the strategies drawn up under the Plan and under its sectoral, special and regional programmes were designed to modernize and transform Mexico so as to strengthen its sovereignty and national security and to protect the country's interests in a world undergoing profound change.

256. Thus, the political institutions and political practice have been harmonized, thereby strengthening the foundations of national co-existence. Liberty today enjoys wider scope. Free debate and party politics are respected and encouraged. The search for dialogue and coordination has allowed the emergence of electoral legislation that is accepted and recognized by the various political forces.

257. In the light of the changes occurring throughout the world, Mexico's foreign policy makes clear the country's sovereign links with other nations. Dialogue and cooperation with countries and economic blocs in all parts of the world have been intensified. For historical and cultural reasons, the links with Latin America are closer; the relationship with the developed countries is of considerable importance because of its impact on Mexico's trade and finances; furthermore, in regions such as the Pacific Basin, Mexico's presence has been consolidated by its trade potential. The relationship between Mexico, Canada and the United States of America has taken shape through the North American Free Trade Agreement.

258. The economic policy pursued is consistent with the objective of achieving gradual and sustained growth. To this end, the economy has been stabilized and the productive apparatus is being modernized to create further and better opportunities for all. In 1990, for the second consecutive year, Mexico's GDP grew faster than the population. The 3.9 per cent increase was the highest in the last nine years, and extended to all sectors of activity.

259. One of the priorities, because of its impact on economic stabilization, has been reduction of the public deficit. Fiscal discipline was maintained and the commitment to bringing down inflation confirmed. The public sector financial deficit, taking into account the gain from the negotiated reduction in the outstanding external debt, was equivalent to 0.5 per cent of GDP,

the lowest percentage since 1985. The annual consumer price increase was 29.9 per cent, a figure which, although higher than forecast, was the second lowest in the last nine years.

260. Various structural reforms have been carried out. Significant among them are the transformations of production and of the administration and the organizational changes that have been introduced in order to modernize the economy.

261. The current regulations facilitate foreign investment and encourage the opening up of new export markets. External debt negotiations, the considerable flow of foreign investment and the repatriation of capital have for the first time in several years made possible a considerable net transfer of external resources to Mexico.

262. Progress has been made with the privatization of public enterprises that are neither strategic nor essential, in accordance with the criteria laid down in the Plan.

263. Rural modernization has included a pricing policy that offers sure returns on crops. Revision of the regulations on fisheries has opened the way for investment.

264. Transport modernization encourages private investment in order to increase services and consolidate the infrastructure, particularly through infrastructure privatization.

265. The Federal Government has responded to the aim of meeting social welfare needs as a matter of priority. The educational modernization programme, which extends to compulsory secondary education, was drawn up so that education could meet the country's development requirements. Educational services and primary health care were provided, with an emphasis on the vulnerable. In the sphere of health, the strengthening of programmes for disease-prevention and control that give priority to mother-and-child care and to schoolchildren, has been decisive. Public-sector housing programmes continued to be strengthened in order to extend access to decent housing. New methods of financing house construction, using money market funds, have been adopted and support is given to self-building.

266. The National Solidarity Programme constitutes the Government's fundamental tool for eradicating extreme poverty; increased funds are being channelled through the Programme and there are greater opportunities for tackling extreme poverty. The social-welfare, productive and regional development infrastructure has been extended in low-income rural and urban areas, as well as in indigenous communities.

Item VII (c) of the list of issues: "What guarantees are there for the independence of the judiciary?"

267. With reference to this question, the observations made in respect of General Comment 13 [21] (see paras. 234 et seq. above) respond to the Committee's concerns.

Item VII (d) of the list of issues: "Please provide information concerning the organization and functioning of the Bar in Mexico and on the availability of free legal assistance to criminal defendants without means."

268. The College of Lawyers (The Mexican Bar) has 1,800 members who constitute the General Assembly of Associates, which meets four times a year. It also has a disciplinary council which deals with cases of violation of professional ethics or of disloyalty to the College.

269. The College is headed by a president, who is assisted by two vice-presidents, and has a first secretary, a second secretary, two deputies, a treasurer, a pro-treasurer and a spokesperson. It also has an Executive Council half of whose membership is subject to election each year and on which the President sits.

270. The College's leaders are elected by the General Assembly on the basis of lists put forward by the Elections Committee which comprises five individually elected members. The Committee arranges the drawing up of the lists, each of which comprises at least 20 members of the Bar, who in turn nominate a candidate for the office of President.

271. In functional terms, the essential purpose of the College is to ensure that the profession of lawyer is exercised in the higher interests of the law and of justice.

272. Article 7 of the Code of Professional Ethics of the College of Lawyers, relating to the defence of indigent persons, provides as follows:

> "Those who exercise the profession of lawyer are required to defend indigent persons, free of charge, at their request, and if appointed to do so by the court; failure to perform this duty without sufficient substantiated reason for being excused therefrom, connected with the area of professional specialization involved, the place at which the services are to be provided or other similar circumstances, shall constitute a serious fault that does discredit to the very essence of the profession of lawyer."

273. However, although the College is the oldest and most prestigious association (it dates from 1922), it has only limited capacity to provide free legal aid to offenders who lack resources. In order to make good this shortcoming, an agreement is being drawn up with the Federal District Department for the payment of scholarships to trainee lawyers who provide free legal assistance to persons without means.

274. On 28 July 1991 the College of Lawyers organized the 35th Congress of the International Union of Lawyers, at which the International Charter Regarding Access to Justice for All was drawn up. The preamble to the Charter states that "The dignity of the lawyer requires that his or her intervention on behalf of an indigent be compensated in an appropriate manner."

275. Articles 4 and 5 of the Charter provide as follows:

"Article 4. Every State shall have the responsibility for assuming the economic burden of legal assistance to indigents. The intervention of the lawyer on behalf of indigents must be compensated in an appropriate manner.

"Article 5. The legal profession, in any event, shall monitor closely the provision of legal services for indigents."

276. The Committee will be interested to learn that in September 1991 a Permanent Programme for Legal Services and Guidance to the Community through Solidarity was established. This Programme was inaugurated by President Carlos Salinas de Gortari with the initiation of activities involving the National Council of Post-graduates in Law of the National Autonomous University of Mexico and the Consultative Council of the National Solidarity Programme.

277. The nationwide Programme involves federal and State Governments, universities and society at large. During its first phase it is operating 40 lawyers' offices, set up in the Federal District and in 10 States. During the second phase offices will be opened in a further 10 States.

278. An essential requirement for the provision of the service is that the beneficiaries must be without means.

279. The offices cover four specialized areas: civil and family law; criminal and human rights law; labour and agrarian law and administrative law.

280. In order to perform their task, the offices, which function from 9.00 a.m. to 3.00 p.m., employ 18 persons: a director, 4 deputy-directors, a registrar and 2 trainee lawyers for each deputy-director, with full responsibility for carrying out the relevant formalities, and administrative staff.

281. The joint contribution of the sectors involved in operating the offices breaks down as follows: the Federal Government pays those who provide the service; the State Government provides the premises, equipment and stationery, and the universities provide the trainee lawyers.

Article 15

282. There is nothing to add to the information contained in the previous report regarding this article.

Article 16

283. The information previously furnished remains valid.

Article 17

284. In reply to the Committee's General Comment 16 [32], Mexico's previous report gave details of the legislation relating to arbitrary or unlawful interference with privacy, the family, the home or correspondence, and the present report responds to the Committee's various comments.

285. The competent authorities to whom complaints of arbitrary interference may be addressed are the Office of the Attorney-General of the Republic, the public prosecutors of the States and the Federal District and CNDH.

286. With respect to irregular conduct by public servants which infringes the rights established in article 17 of the Covenant, the competent authorities are: the Office of the Federal Comptroller General and the offices of the internal civil service comptroller in each of the departments of the Federal and State Administrations, where there are specific sections responsible for dealing with all types of complaints of arbitrary or unlawful interference, which may be submitted directly, that is in person, or in writing. Specifically, in the Office of the Attorney-General of the Republic, the internal Comptroller has a Directorate General for Complaints that is responsible for receiving, processing and resolving all complaints against officials in the Attorney-General's Office with regard to acts involving any irregularity of an administrative nature. In 1988 the internal comptroller received 224 complaints, and he received 323 in 1989, 210 in 1990, and 608 in 1991. In addition, the creation of CNDH has led to that body submitting 41 recommendations to the office of the Attorney-General of the Republic, which also received 124 diplomatic notes. In 1992 173 complaints were received, 13 recommendations by CNDH and 43 diplomatic notes, making a total of 1,759 complaints received in the period from 1988 to 1992 of which 1,598 were resolved, 160 were the subject of applications for reconsideration. Of these, only 26 were reconsidered or revised. All the foregoing took place in accordance with the Federal Civil Servants' Responsibility Act.

287. With reference to paragraph 5 of General Comment 16 [32], the family in Mexico is a nucleus of persons forming a natural social group and deriving from the biological fact of generation. In other words, it is composed of the progenitors and their progeny: father, mother, children and grandchildren. It is considered that outside this group the bonds of the extended family are not as close.

288. The term "home" (domicilio) is found in the Civil Code for the Federal District under general matters and for the Republic under federal matters. In article 29, the "home" of a natural person is the place where he usually resides, or, failing this, his usual principal place of business. Failing these, it is simply his place of residence or, otherwise the place where he may be found. It is deemed that a person usually resides in a place if he remains there for more than six months.

289. Articles 30 to 33 of the Civil Code state as follows:

"Article 30. The legal domicile of a natural person is the place where the law determines his residence to be for the purpose of exercising his rights and fulfilling his obligations, even if he is not actually present there.

Article 31. Legal domicile is considered to be:

(i) For minors who are not yet emancipated, the domicile of the person having parental authority over them;

(ii) For minors not subject to parental authority and disabled adults, the domicile of their guardian;

(iii) For abandoned minors and disabled persons, the place determined as provided in article 29;

(iv) For spouses, the place where they live by mutual agreement, without prejudice to the right of each spouse to fix his domicile as provided in article 29;

(v) For military personnel on active service, the place where they are posted;

(vi) For civil servants, the place where they exercise their functions for more than six months;

(vii) For diplomatic officials, their last domicile in the territory of the accrediting State, subject to locally contracted obligations;

(viii) For persons residing temporarily in Mexico and performing a mission for being in the employ of their Government or an international organization, the State which appointed them or their domicile prior to the said appointment, subject to locally contracted obligations;

(ix) For persons sentenced to a custodial penalty exceeding six months, in the case of legal relations subsequent to sentencing, the place where they serve the sentence; for previous relations, the detainee retains his last domicile.

Article 32. When a person has two or more domiciles, he shall be considered to be domiciled in the place where he simply resides, and if he lives in several, in the one where he is to be found.

Article 33. Legal persons have their domicile in the place where their administration is established.

Those whose administration is located outside the Federal District but which execute legal acts within its judicial district, are deemed to be domiciled there in respect of the acts in question.

Branches which operate in places other than those of the headquarters, shall have their domicile in those places with respect to the fulfilment of obligations, contractually assumed by them."

290. With reference to paragraph 7 of General Comment 16 [32], article 16 of the Constitution provides that persons can be subjected to interference only on the basis of a warrant issued by the competent authority. Thus the various secondary laws and regulations in the Mexican legal system currently in force govern those cases where interference can lawfully take place in order to clarify facts and reveal the truth, but always subject to the protection of the law.

291. With regard to paragraph 8, the criminal law and the General Communications Act identify specific offences and establish in connection

therewith penalties to be imposed on persons interfering with correspondence or tapping telephone or telegraph lines. Search warrants are always issued by a judge and specify the place to be searched and the items subject to investigation. Constant progress is being made in ensuring that all persons are treated with due dignity. It is thus provided that staff involved in a search must be of the same sex as the person being searched (Minimum Rules on Social Rehabilitation of Prisoners Act and the related administrative rules).

292. Mexico's extension of legislation includes provisions concerning the interception of correspondence. The Criminal Code in matters of common law and for the Republic in Federal matters, establishes in its Title Five, concerning offences in relation to communication and correspondence, the offence of "interference with correspondence" in articles 173 to 177, which provide for the imposition of imprisonment and fines as follows:

"Article 173.

(i) On any person who improperly opens a written communication not addressed to him; and

(ii) On any person who improperly intercepts a written communication not addressed to him, even if he keeps it unopened and does not ascertain its content.

Article 174. Parents who open or intercept written communications addressed to their minor children, as well as guardians who so act in respect of persons in their care and spouses in respect of each other, are not considered to have committed an offence.

Article 175. The provisions of article 173 do not include correspondence circulating within the postal system, which is subject to the provisions of the postal legislation.

Article 176. Any employee of a telegraph, telephone or wireless station who knowingly fails to transmit a message entrusted to him for that purpose, or to forward to the addressee a message received from another office, shall be punished by a term of imprisonment of 15 days to 1 year and a fine of 50 to 500 pesos, in cases where no damage results.

Article 177. If damage results, the penalty provided for in the preceding article shall be doubled."

293. Furthermore, articles 576, 577 and 578 of the General Communications Act provide as follows:

"Article 576. Any person who improperly opens, destroys or removes any item of sealed correspondence entrusted to the post shall be liable to imprisonment for a term of one month to one year or a fine of 50 to 1,000 pesos.

Article 577. If the offence to which the preceding article refers is committed by any official or employee of the Post Office, the penalty shall be imprisonment for a term of two months to two years and a fine of 100 to 1,000 pesos. The offender shall also be dismissed from his post.

Article 578. Electronic or postal communications employees who improperly furnish information about persons communicating by these means shall be liable to imprisonment for a period of 10 days to 3 months and shall also be dismissed from their post."

294. With regard to paragraph 9 of the comments, Mexico fully complies in its laws and regulations with the provisions of article 17 of the Covenant with regard to the obligation to refrain from interferences inconsistent therewith.

295. With regard to paragraph 10, the gathering and holding of personal information are voluntary and optional and are duly regulated within the existing legislative framework. Unauthorized persons may not obtain such information, and private individuals may apply for its correction or deletion, should this be in their interest.

296. With regard to paragraph 11 of the General Comment, Mexican legislation provides penalties in its Penal Code for acts which damage personal honour and reputation. The Penal Code contains a special chapter entitled "Offences against honour" that fixes penalties for those who damage personal honour and reputation. It classifies as criminal offences the acts of defamation and slander. The first is understood as "fraudulently communicating to one or more persons the imputation to another natural person, or legal person in cases established by the law, of a true or false fact, specified or unspecified, which may cause him dishonour, discredit or harm or expose him to ridicule." The second applies to the following cases:

(i) Where a person imputes to another a specific unlawful act if the act did not take place or the person to which it is attributed is innocent;

(ii) Where a person makes slanderous denunciations, complaints or accusations, understood as ones by which the author imputes an offence to a specific person, knowing that he is innocent or that the act has not been committed;

(iii) Where a person, in order to make an innocent person appear guilty of an offence, places on the person of the slandered party, in his house or in any other place suited to the purpose, an object which may provide evidence or give rise to presumption of guilt."

297. In addition, and in relation to the second periodic report, the following observations are transmitted to the Committee.

298. With reference to General Comment 16 [32], it is pointed out that there is no interference with the matters protected by article 17 of the Covenant by either the Army or the Air Force for their own purposes, and there is therefore no violation by them of that article. This is because the armed forces act in criminal matters only in extreme cases and relevant orders are issued. Under the supervision of the High Command military personnel are required to respect the provisions of the Constitution of the United Mexican States and all laws derived therefrom, aware that article 16 of the Constitution clearly indicates, inter alia:

(a) That no-one may suffer interference with his person, family, home, papers or possessions unless by written warrant of the competent authority, stating the legal grounds for the proceedings;

(b) That only in the case of flagrante delicto may any person arrest an offender and his accomplices, and he must place them without delay at the disposal of the nearest authority;

(c) That only in urgent cases when there is no judicial authority present and the offences concerned are ones in respect of which proceedings have to be initiated, the administrative authority, strictly under its own responsibility, may order the detention of an accused person and place him immediately at the disposal of the judicial authority.

299. Thus, the Department of Defence sees to it that military personnel do not interfere arbitrarily or unlawfully in the life of individuals or their family and that they also respect their correspondence.

Article 18

300. With regard to freedom of thought, religion and conscience, constitutional reforms were introduced in 1991 in response to the Committee's comments.

301. The changes in the Constitution related to the provisions of article 18 of the Covenant are indicated below:

"Article 3

(i) Freedom of belief being guaranteed by article 24, education shall be secular and as such maintained completely separate from any religious doctrine;

(ii) The guiding principle for education shall be based on the results of scientific progress. It shall combat ignorance and the effects thereof: servitude, fanaticism and prejudice.

In addition:

(iii) It shall contribute to improved human coexistence both through what it brings to strengthen appreciation by those being educated of the dignity of the individual and the integrity of the family, and their awareness of the general interest of society, and by its concern to support the ideals of fraternity and the equality of rights of all men, avoiding privileges of race, religion, groups, sex or individuals;

(iv) Private educational establishments of the type and level specified in the preceding subparagraph shall provide education based on the same purposes and principles as are set out in paragraph 1 and subparagraph (ii) of this article. They shall also execute the official plans and programmes and comply with the provisions of the preceding subparagraph."

302. Public education in Mexico is secular, in accordance with the Constitution. There are nevertheless some private schools providing religious education in Mexico.

Article 24

"Everyone is free to embrace the religion of his choice and to practice all its ceremonies, devotions and observances, provided they do not constitute an offence punishable by law.

The Congress may not enact laws establishing or prohibiting any religion whatsoever.

Religious acts of public worship shall normally be performed inside places of worship. Those which, exceptionally, are performed outside places of worship shall be subject to the relevant regulations.

"Article 130

"The provisions of the present article are guided by the historical principle of separation of State and church. Churches and other religious groups shall be subject to the law.

The Congress of the Union has exclusive authority to legislate on matters of public worship, churches and religious groups. The relevant regulations act, which shall be public, shall develop and give effect to the following provisions:

(a) Churches and religious groups shall have legal personality as religious associations once they have been registered as such. The law shall regulate such associations and shall determine the conditions and requirements for their establishment through registration;

(b) The authorities shall not intervene in the internal affairs of religious associations;

(c) Mexicans may serve in the ministry of any religion. Mexicans and foreigners shall for this purpose satisfy the requirements imposed by law;

(d) Under the terms of the regulatory act, ministers of religion may not hold public office. As citizens they shall have the right to vote but not to be elected. Persons having ceased to be ministers of religion in due time and in the manner required by law, may be elected;

(e) Ministers shall not form associations for political purposes nor proselytize for or against any candidate, party or political association. They may not in any public meeting, act of worship or religious propaganda, or in religious publications, oppose the laws of Mexico or its institutions, nor in any way insult symbols of the nation.

The formation of any type of political group whose name contains any word or indication linking it to any religious faith is strictly prohibited. Political meetings may not be held in places of worship.

303. The regulation act of article 130 of the Constitution, amendments to which were approved in December 1991, has not yet been considered in the Congress of the Union. Its consideration will take place at the present regular session of the Chamber of Deputies.

304. The 1990 Eleventh General Population and Housing Census showed that the population of Mexico is in majority Catholic, with 89.7 per cent of people over the age of five stating that they are Catholic. In second place come the Evangelists, with 4.9 per cent. Other religions, including the Jewish faith, account for 1.5 per cent, while 3.2 per cent stated they did not have a religion. It should be noted that the Mexican State does not have an official religion, although the majority of the population are Catholic.

305. It should also be noted that there is little difference in religion by sex, the percentages being very similar. The highest percentages of Catholics are in the States of Aguas-calientes, Guanajuato, Jalisco, Querétaro and Zacatecas, while the lowest percentages are found in Chiapas, Tabasco, Campeche and Quintana Roo.

306. The highest proportions of Protestants and Evangelists are found in Chiapas, Tabasco, Campeche and Quintana Roo. The States with the highest percentages of people without a religion are Chiapas, Tabasco, Sinaloa and Campeche.

307. In reply to the Committee's comment, the various places of worship are registered at the Religious Affairs Branch of the Department of Internal Affairs.

308. Religious material is freely published and distributed, and measures have been adopted to guarantee religious freedom for minorities.

309. In its comments on article 18 of the Covenant, the Committee requested information on its application in practice to cases where recognition of a religion other than the dominant one was denied. In this connection, CNDH issued recommendation No. 16/1992 concerning the case of Eloy Méndez, of the Calihualá Baptist Church, Oaxaca, who had been arrested for refusing to contribute money for the festival of the town's patron Saint and for improvements to the Catholic church. CNDH recommended that the Congress and the State Governor of Oaxaca should investigate the actions of those responsible for the unlawful detention of Eloy Méndez.

310. With regard to conscientious objectors on religious grounds, as reported in relation to article 8 (see above, para. 180), Mexico has no legislation governing such cases, and there are no precedents for conscientious objectors, given that people are willing to undertake military service, which in Mexico constitutes a social duty. Nevertheless, membership of the Mennonites is included among grounds for total or partial exemption.

Item X (a) of the list of issues: Please clarify the meaning of the second paragraph of article 24 of the Constitution, particularly the statement that places of worship "shall at all times be under Government supervision" (see para. 305 of the report)

311. This provision of the Constitution was amended, together with other provisions relating to religious matters, as announced in the Diarie Oficial of the Federation of 28 January 1992, the words "every religious act of public worship must be performed strictly inside places of public worship, which shall at all times be under government supervision" being deleted.

Article 19

Item X (b) of the list of issues: "Legal regime relating to ownership and licensing of the press and the broadcast media"

312. The following information is provided to supplement that contained in the second report of Mexico and in response to General Comment 10 [19] and item X (b).

313. The Federal Radio and Television Act and its regulatory text and the Cinematographic Industry Act and the Regulations for the Cable Transmission Service govern the ownership and licensing of the press and the broadcast media.

314. The principal articles of the Federal Radio and Television Act concerning the granting of licences and permits are as follows:

> "Article 4. Radio and television are an activity of public interest, and the State must therefore protect and supervise this activity to ensure that it fulfils its social function.
>
> Article 5. Radio and television have the social function of contributing to the strengthening of national integration and the improvement of forms of human coexistence. To that end, through their broadcasts, they shall endeavour:
>
> (i) To promote respect for the principles of social morality, human dignity and family ties.
>
> (ii) To avoid influences which might harm or disturb the harmonious development of children and young people.
>
> (iii) To contribute to raising the cultural level of the people and conserve national characteristics, customs and traditions and the purity of the language and to extol, Mexico's national values.
>
> (iv) To strengthen democratic convictions, national unity and international friendship and cooperation."
>
> "Article 9. The Department of Communications and Transport is responsible for:

(i) Granting and revoking licences and permits for radio and television stations, and assigning to them the appropriate frequency.

(ii) Declaring suspended the processing of applications for licences and permits, and declaring licences and permits void or lapsed and amending them in the cases provided for in this Act.

(iii) Authorizing and supervising, from a technical stand point, the functioning and operation of stations and their services.

(iv) Fixing the minimum tariffs for commercial stations.

(v) Intervening in the leasing, sale and other acts affecting the ownership of transmitters.

(vi) Imposing penalties in respect of matters within its sphere of competence and

(vii) Other matters as provided by law.

Article 13. On granting the licences or permits to which this Act refers, the Federal Executive, through the Department of Communications and Transport, shall determine the nature and purpose of radio and television stations, which may be: commercial, official, cultural, experimental, educational or of any other type.

Commercial stations must hold a licence. Official, cultural, experimental and educational stations and those established by public bodies for their own purposes and services require only a permit.

Article 14. Licences for commercial use of radio and television channels, whatever the system of modulation, amplitude or frequency, shall be granted only to Mexican citizens or companies whose shareholders are Mexican. In the case of joint stock companies the shares shall be registered and such companies shall be obliged to furnish annually to the Department of Communications and Transport the list of the shareholders.

Article 16. Licenses shall have a term not exceeding 30 years and they may be granted again to the same licensee who shall have preference over third parties."

315. The Cable Television Service Regulations state:

"Article 6. In addition to the powers granted to it under the General Communication Act, the Department of Communications and Transport shall also have the following powers:

...

(ii) To monitor, inspect and verify compliance with the provisions of the General Communication Act and of these Regulations and with the terms of the licence or permit.

Article 7. The Department of Communications and Transport may at any time authorize foreign channel broadcasts over the cable television system."

316. Article 2, Section IX, of the Cinematographic Industry Act states:

"For the purposes of this Act, the Department of the Interior shall have the following powers:

...

(ix) To authorize the public showing of cinematographic films in the Republic, whether produced in Mexico or abroad. Such authorization shall be granted provided that the spirit and content of the films, in both images and words, do not infringe article 6 and other provisions of the General Constitution of the Republic;

Television stations may show only films suitable for general viewing;".

317. Legislation concerning the press is contained in the Press Act, adopted to implement articles 6 and 7 of the Constitution. Press freedom is restricted only in the matter of attacks on privacy, morality and public order or peace.

318. It is worth mentioning that as part of the process of modernizing and democratizing the media, the Government of Mexico is redefining its role in the area of communications and this year decided to sell its broadcasting organizations, Television Channel 13 and the newspaper El Nacional. The Government is committed to guaranteeing freedom of expression, to encouraging the opening of broadcasting outlets, to protecting the rights of Mexicans working in the media, to creating and restoring conditions in which they may develop and to closing the door on all forms of intolerance.

319. The State is also responsible for promoting a more diversified and pluralistic ownership and management of the media and regulating the relations and interests of the media and society.

320. In order to safeguard freedom of expression, without discrimination or restriction, CNDH established the Programme on Attacks on Journalists. Specifically, the Commission has published precise details, in its four biannual reports, of the progress made in the investigation of the tragic events in which representatives of the media lost their lives.

321. On 2 March 1992, CNDH reported on the conclusion of investigations in the first stage of this programme, which involved 55 cases. The report recorded that 39 of the 55 cases relating to the years 1983 to 1990 had been concluded. Some details of these cases are set out below:

Cases under investigation

Víctor Manuel Oropeza Contreras:

On 7 February 1992 CNDH issued recommendation No. 13/92 describing the circumstances in which three non-governmental organizations requested an investigation into the murder of the doctor and journalist Víctor Manuel Oropeza Contreras, on 3 July 1991, in Ciudad Juárez, Chihuaha.

CNDH recommends that in this case the officials and officers of the State Investigation Service, who intervened, carried out arbitrary arrests and arranged the removal of the body should themselves be investigated. Their actions may possibly result in the findings of probably administrative and criminal liability, since there is presumably a cover-up of the perpetrators of the murder or of the participation of one of them in the crimes, since it was a known fact that evidence was destroyed, a fact which is entirely unacceptable.

In addition, there is administrative and criminal liability on the part of officers of the Office of the Attorney-General of the Republic and the State Public Prosecutor's Office who caused relations of the complainants and other persons not related to them to be arrested, subjected them to violence and, after subjecting them to duress, released them.

CNDH also recommends that the contradictions between the statements of C. Patricia Martínez, wife of the murder victim, of her children and of the daughter-in-law be investigated and clarified.

Gabriel Venegas Valencia:

Both the Office of the Attorney-General of the Federal District and the office of the Attorney-General of the State of Mexico are continuing to investigate this case. In 1991 the journalist's missing car was found and the investigators are awaiting a person currently in Europe who may be able to provide information in the case.

Other cases of journalists the investigation of which has been concluded

Mario Centeno Yañez (1983): His murderer was sentenced to 11 years in prison;

Manuel Buendía (1984): Four of those responsible are in prison and the investigation is continuing;

José Antonio Godoy Mena (1985): His murderer was sentenced to 11 years in prison;

José Luis Nava Landa (1985): His murderer was sentenced to a term of imprisonment but the appeal court revoked the sentence and ordered his unconditional release since he had acted in self-defence;

Manuel Rodríguez (1986): His murderer was sentenced to 14 years in prison;

Antonio Iván Menéndez (1986): His murderer was sentenced to 35 years in prison;

Manuel Félix Uzeta and María de Jesús Gil de Félix (1986): CNDH recommended that Javier Rodríguez, who was responsible for their deaths in a motor accident, be arrested;

Herlinda Bejarano de Gómez: Those responsible were sentenced to 25, 26 and 27 years in prison;

Felipe González Hernández: He was killed in the State of Mexico. It was established that his occupation was that of businessman but credentials found on him showed him to be accredited as a journalist of El Debate. However, the editor of this publication stated that the person in question had never worked with him;

Martín Ortíz Moreno (1987): His murderer was sentenced to 15 years in prison;

Rigoberto Coria Ochoa (1988): His murderer was sentenced to 22 years in prison;

Ronay Jiménez Gómez or Ramón González Gómez or Ronay González Reyes, manager of the newspaper El Mundo in Comitán, Chiapas. He was killed on 13 June 1988 by C. Alberto Jordán Cuevas Mendoza, who acted in revenge because the journalist had killed his brother. In this case execution of the warrant for arrest is pending;

Héctor Félix Miranda (1988): His murderers were sentenced to 24 and 27 years in prison;

Manuel Burqueño Orduño (1988): His murderer was sentenced to 31 years in prison;

Elvira Marcelo Esquivel (1989): Her murderer was convicted;

Rodolfo Mendoza Morales (1989): His murderer was sentenced to 15 years in prison;

Ezequiel Huerta Acosta (1989): His murderer was released because he had acted in self-defence;

Nicolás Lizama Cornelio (1989), a cartoonist who was abducted and robbed. Those responsible were sentenced to two years in prison; they are currently on parole;

Moisés Cervantes Rodríguez, Ismael López Chiñas, Leopoldo Navarro Amador and Federico Velio Ortega (1989): Assaulted by police during a rock concert. The officers responsible, who were accused of causing injury, verbal abuse and abuse of authority, were released on bail;

Alfredo Córdova Solórzano (1990), correspondent of the periodical Excelsior and manager of Uno Más Dos: Died in Mexico City on 9 June 1990 as a result of injuries inflicted by three persons whom he caught trying to open his car,

parked at the home of his mistress. Both the wife and the mistress have expressed their approval of the manner in which the proceedings are being conducted. A minor involved in the offence was placed in the care of the Tutelary Council.

Juvencio Arenas Gálvez (1991): CNDH concluded the investigation since those responsible were arrested by officials of the Attorney-General's Office of the State of Mexico and will be remanded for preliminary investigation (LR/1/439/91).

Article 20

322. With regard to article 20 of the Covenant, both articles 6 and 7 of the Constitution guarantee freedom of expression provided that it does not disturb public order or peace. The information relating to this article contained in the previous report remains valid, since the law prohibits propaganda for war and advocacy of national, racial or religious hatred.

Article 21

323. With reference to the Committee's comment, in Mexico the right of assembly is guaranteed as a human right in article 9 of the Constitution and the present Government is concerned to guarantee freedom of expression.

324. The National Development Plan (1988-1994) states that anyone exercising the right to demonstrate shall do so in a responsible manner in order to avoid any abuse of or harm to others, and thus to encourage members of society to participate in strengthening a democratic and dynamic State, which is seeking appropriate solutions to the problems of society through open participation by the governed.

325. To this end the Department of Security and Highways is taking measures to guarantee the right of citizens to demonstrate, as well as measures to ensure the maintenance of public order necessary to ensure that such events are prepared, conducted and concluded in a climate of calm and respect not only for the participants but also for others.

326. The legislation protecting persons who wish to engage in demonstrations hold meetings or express any opinion is as follows:

Constitution of the United Mexican States:

Article 6 "Expression of ideas";

Article 7 "Freedom of expression";

Article 18 "Respect for the right of petition";

Regulations of the Federal District Police;

Article 3 "The basic function of the Department";

Article 4 "The office of Secretary of the Department";

Article 5 "The functions of the police".

Regulations of the Federal District, Justice, Police Offences and Good Government Act:

Article 1 "Public places";

Article 2 "Those responsible for the commission of offences";

Article 3 "Police offences and good government".

327. The State grants this right to all persons, regardless of their social, political or ethnic status. There is therefore no difference whatsoever before the law between the inhabitants of Mexico, who are all under a duty to obey the law. They are thus liable to the appropriate penalties for contravention of the law, inciting conflict, acts which violate individual freedoms and acts which cause social unrest.

328. The Federal District, considered to be Mexico's economic, political and social centre, which is the seat of the Federal Government and where one fifth of the population of the country live, is the focus for many demonstrations by people who come from different Mexican states. The Federal District thus offers the best example of freedom of expression that can be furnished to the Committee.

329. The foregoing has intensified problems affecting social peace in the Federal District, since there are frequently demonstrations, meetings, religious processions and gatherings of people who come from other parts of the country to seek satisfaction of their demands.

330. The Department of Security and Highways is responsible for maintaining public order and security in the capital. Fundamental to the training of its personnel is the need always to respect the freedom of expression, ideas, beliefs and physical integrity of citizens.

331. In no circumstances and on no grounds may the police intervene in matters disturbing social peace except in cases where they are required to do so in the performance of their duty. Basically, the police operating strategy is to "provide support at special events", mainly by ensuring surveillance and security and keeping roads open before, during and after the various events which take place in the capital, such as political and religious demonstrations, where the police provide an escort and supervision and ensure that no acts of vandalism affecting the rights of others are committed during the event.

332. Demonstrations of all kinds may take place in Mexico. The security forces simply have procedures for ensuring pubic order during mass demonstrations.

333. The freedom to demonstrate, exercised in order to express public demands which every citizen has the right to make, is based on article 6 of the Constitution: consequently, no one may curtail the free expression of thought of one or more individuals, which they are entitled to express provided that it does not disturb the peace and that the rights of third parties are respected.

334. In the Department of Security and Highways great importance is attached to developing awareness among and to the training of the specialist operational units responsible for intervening in demonstrations. The need to observe the following guidelines is emphasized: to control the demonstration and lead it towards a predesignated route; to prevent and avoid any acts of aggression; to inspire confidence among the demonstrators, by showing impartiality.

335. The police have a deployment model for guiding demonstrations. During this deployment, female officers are deployed at the front, on the right and left sides and at the rear; at the same time, the various units posted along the route temporarily halt and divert the traffic (there are some 3 million vehicles in the capital) and remove any vehicles obstructing the route.

336. In addition, strictly according to law and as a precautionary measure against possible civil disturbances, the police set up fire prevention and emergency first aid stations, as a precaution against accidents and unforeseen events.

337. As can be seen, during actions involving the right of public demonstration, the Government of Mexico furnishes the necessary guarantees to enable the people to express their demands and their differing views in an atmosphere of calm and full constitutional freedom.

338. In cases where the police themselves have voiced grievances on behalf of their personnel, they have been allowed every facility to express their problems through the appropriate internal channels. They are thus guaranteed a framework of full respect for their physical and moral integrity, so that they may express their concerns.

339. Annex 8 shows the number of mass demonstrations that took place in the Federal District during 1991 and the period from January to May 1992. During none of these events was any person referred to the Public Prosecutor's Office or the examining judge and no arrests were made. It should be mentioned that in the hypothetical case where a demonstration results in excessive provocation against the police, the latter will not respond in a violent manner, but will try to achieve a peaceful solution and will as far as possible prevent acts of vandalism among the participants. Any arrest carried out would only be related to unlawful acts or offences.

340. Tables are also annexed showing in greater detail the reasons for the holding of various mass demonstrations that took place in the Mexican capital up to the month of May.

Article 22

341. In its comments on article 22 of the Covenant, the Committee requests a description of the procedures for regulating the formation of associations, and asks when and in what circumstances they must obtain authorization and register, and what level of public authority exercises control over the life and activities of associations.

342. Article 27 of the Constitution, in sections II, III and IV, is the legal basis for the formation of associations or groups:

> "II. Religious associations formed under the terms of article 130 and its regulatory text shall have capacity to acquire, possess or administer only such property as is essential to its purposes, subject to the requirements and restrictions of the regulatory legislation;
>
> III. Public and private charitable institutions whose object is assistance to the needy, scientific research, education, mutual assistance among members, or any other lawful purpose, shall not acquire real property other than that which is essential for their immediate or direct purposes, subject to the provisions of the regulatory legislation;
>
> IV. Commercial corporations may own rural land only to the extent necessary for the fulfilment of their objectives.
>
> In no circumstances may corporations of this type own land reserved for agriculture, livestock raising or forestry of an extent exceeding the equivalent of 25 times the limit set out in section XV of this article. The regulatory law shall govern the capital structure and minimum number of shareholders in such corporations in such a manner that the land owned by the corporation does not exceed, for each shareholder, the applicable smallholding limits. In such cases, all the individual shareholdings, consisting of rural land, shall be accumulated for the purposes of the calculation. The law shall also lay down the conditions for foreign participation in such corporations.
>
> The same law shall institute the necessary measures for recording and monitoring compliance with the provisions of this section."

343. The Civil Code, in Title Two, article 25, defines as legal persons: general partnerships and commercial corporations, trade unions, professional associations, cooperative and mutual societies, and other associations having political, scientific, artistic, recreational or any other lawful purpose, provided that they are recognized as such by law.

344. With regard to the Committee's comment on governmental control of the existence and activities of associations, this point is answered in connection with the formation of associations or groups working for human rights.

345. In reply to the Committee's observation concerning the relevant laws and practice relating to the establishment of political parties, the Federal Code on Institutions and Electoral Procedures, sets out the requirements for registration in article 24 of Title Two, as follows:

"1. For an organization to be registered as a national political party, it must fulfil the following requirements:

(a) Formulate a declaration of principles and, in conformity therewith, its programme of action and the statutes governing its activities; and

(b) Have 3,000 members in at least half of the federal states, or at least 300 members in at least half of the single-member electoral constituencies; in no case shall the total number of members in the country be less than 65,000."

346. The historical origins of this provision, as far as the programme of action is concerned, are found in the 1911 Electoral Act, which required political parties to approve a political programme and programme of Government; this requirement was reproduced in the same terms in the 1918 act.

347. The 1946 act established the requirement to register a political programme containing policies for government and proposals for the solution of national problems, and, for the first time, parties were required to file their statutes. In 1949, when the act was amended, a declaration of principles was required, as a basis and support for the programme of action.

348. All the subsequent electoral acts, namely those of 1951, 1973, 1977, 1987 and the current Act of 1990, restated the same requirements for the registration of political parties: a declaration of principles, a programme of action and statutes.

349. In addition, the Madero and Carranza Acts (1911 and 1918) stipulated that political parties should be constituted by an assembly of at least 100 citizens. The 1977, 1987 and 1990 acts maintained the same requirement of at least 3,000 members in each of half of the federal states, or at least 300 members in each of half of the uninominal electoral constituencies, with the provision that the total nationwide membership should be not less than 65,000.

350. With regard to trade unions, in addition to the information furnished in Mexico's second periodic report (1987), it is pointed out, with reference to trade unions and freedom of association, that since the bank nationalization in 1982, bank workers have formed national trade unions for each banking institution. These formed themselves into a National Federation of Bank Unions (FENASIB), on the basis of the amendment to article 123, paragraph (b), of the Constitution, to which a section XIII bis was added, stating that employment relations between the national banking and credit service and its employees were to be governed by this paragraph. This amendment led to the enactment of legislation regulating section XIII bis, which further refers, inter alia, to Title Four of the Federal Civil Servants Act with regard to the collective organization of workers in trade unions.

351. With the return of the banks to the private sector, paragraph (a) of article 123 was amended in order to recognize the acquired rights of bank workers whose labour relations, as a result of the bank privatization, would now be governed by this paragraph and its regulatory text. The policy of the Federal Labour Administration was to recognize the trade union rights which

they already enjoyed under paragraph (b). Employees in development banks which continue to be State-owned retain the same rights. In addition to the right to form trade unions, employees in banking and credit institutions have the right to engage in collective bargaining and to take strike action, the latter being restricted by certain rules and the prohibition of total withholding of labour, given the special nature of the service they provide, which might in certain circumstances affect public security, public order or rights or freedoms of bank users.

352. CNDH welcomes the creation of associations or groups working in favour of human rights. It therefore provides appropriate support and advice in organizing such associations when so requested.

353. It is appropriate to mention the existence prior to the creation of CNDH of groups (leagues, fronts, centres and associations) that have a broad and widely recognized role in the protection of human rights and with which channels of communication were established because of the common concern and objectives to promote and defend human rights. Similarly, close relations have been established with recently created non-governmental human rights organizations.

354. With regard to the legal aspect, it is pointed out that CNDH does not have authority to intervene in the process of granting permits for constituting civil associations for the promotion and defence of human rights. That authority belongs to the Secretariat for External Relations (SRE) and, more specifically, to the latter's Permits Branch.

355. Such permits are invariably granted subject to compliance with the provisions of Section I of the regulatory act relating to article 27 of the Constitution, and the Foreign Investment Act, without the function of SRE being in any way to restrict freedom of association. The SRE permit originates historically from the Calvo Clause established to protect national sovereignty and is also used to avoid duplication of names of legal persons.

356. It should be noted that these permits are granted with the proviso that the use of names or abbreviations must not be liable to cause confusion, for example with CNDH or with the names of the state human rights commissions.

357. Non-governmental organizations are entitled to use the words "human rights" together with such other words as will prevent confusion. In practice, therefore, names such as "human rights defence group", "committee for human rights", "independent human rights commission", etc. are used.

358. With regard to the concern and trend in CNDH to promote and strengthen relations with non-governmental human rights organizations, the following programmes are being carried out:

(a) Distribution of Gaceta, the information journal of CNDH;

(b) Working meetings, with groups in the Federal District and in the different states, for the purpose of exchanging views;

(c) Invitations to NGOs to participate in various events organized by CNDH and vice versa;

(d) Close liaison in connection with complaints submitted by NGOs concerning violations of human rights;

(e) Joint publication of studies of general interest concerning human rights.

359. With regard to measures to ensure that these groups may act freely in defence of human rights, it is necessary to state only that freedom of association is guaranteed by article 9 of the Constitution of the United Mexican States, as is proved by the existence of organizations which adopt radical positions and have the freedom to do so. In this connection and in fulfilment of its mandate, CNDH constitutes an additional means of dealing with any complaint concerning violation of the freedom of association: refusal by the competent authorities without due cause to register, registration requirements more stringent than those laid down, etc.

360. Further to the particulars furnished in earlier reports, which remain unchanged, the following additional information is provided in response to the Committee's questions.

Item XI (a) of the list of issues: "Please describe the relevant laws and practices relating to the establishment of political parties."

361. This point was answered in relation to the comment on article 22 above.

Item XI (b) of the list of issues: "How are trade unions organized and what is the size of their membership? What percentage of the labour force belongs to trade unions?"

362. Five thousand two hundred and sixty nine trade unions are registered with the Registration of Associations Branch of the Department of Labour and Social Security. The trade unions are organized in federations and confederations. They have 2,239,837 members, who account for 9.3 per cent of the economically-active population.

Article 23

363. With reference to the Committee's General Comment 19 [39], it is believed that Mexico's second report answered most of the points raised.

Item XII (a) of the list of issues: "What differences exist, if any, in the status and rights of children born in wedlock or out of wedlock?"

364. Mexican legislation does not recognize any differences between the status and rights of children born in wedlock or out of wedlock.

365. The Civil Code for the Federal District in ordinary matters and for the Republic as a whole in federal matters provides, in article 389, that in order to have the right to bear the paternal family name of his parents, or both family names of those recognizing him, or to be maintained by the persons

recognizing him, or to receive his inheritance and the maintenance provided for by law, a minor child must be recognized exclusively by the father, by the mother or by both.

Article 24

366. Most of the points raised in General Comment 17 [35] were answered in Mexico's second report.

367. With regard to paragraph 2 of the Committee's comments, juveniles under the age of 18 years cannot be prosecuted. Article 119 of the Penal Code provides that "juveniles under the age of 18 years who commit offences against the criminal laws shall be placed in detention for the time necessary for their educational correction".

368. In addition, juvenile offenders are immediately placed in the care of the tutelary council, auxiliary councils or examining judges, under the provisions of articles 2, 34, 48, 49 and provisional 5 of the Tutelary Councils for Juvenile Offenders Act. Institutions for Juveniles are separate from those for adults as appropriate to their age and legal status.

369. In Mexico there are juvenile councils in each State, with jurisdiction in that State. In addition, on 22 February, the new Treatment of Juvenile Offenders Act came into force for ordinary matters in the Federal District and for the Republic as a whole in federal matters.

370. The juvenile councils are competent to deal with children and adolescents between 11 and 18 years of age who have problems. These institutions are not concerned with cases of children under the age of 11 years, as such cases are referred to public and private support agencies, the main aim being not to initiate proceedings but to solve the problems together with the parents or guardians.

371. With reference to paragraph 4, in Mexico, the age of civil and criminal responsibility is attained at 18.

372. With regard to paragraph 6, concerning assistance provided to fathers or mothers gainfully employed outside the home, institutions in the health sector, as well as public bodies and, to a lesser extent, private enterprises, provide crèches which help the family to ensure their child's care during working hours.

373. In the event of dissolution of a marriage, the Civil Code provides that the judge shall authorize the spouses to separate and shall lay down the measures necessary to provide for the subsistence of the children for whom they have an obligation of maintenance. When the petition for divorce is accepted, arrangements for the protection of the children are ordered.

374. On the granting of divorce, the position of the children is settled, to which end the judge must enjoy the widest powers to resolve all matters relating to the rights and obligations inherent in parental authority, its

loss, suspension or restriction, depending on circumstances, and particularly the custody and care of the children, and he must obtain all the information necessary to decide the matter.

375. The law also requires the divorced partners to contribute, in proportion to their income, to the needs of the children, and their maintenance and education until they attain their majority (18 years).

376. If it is necessary to separate a child from his family, or to restrict the authority of the parents, the judicial authority is responsible for taking such action when the circumstances so require.

Item XII (b) of the list of issues: "Law and practice relating to the employment of minors. Are there differences in this regard between urban and rural areas?"

377. Both law and practice in Mexico observe the provisions of this article, which are the same as those in articles 1, 4 and 123 of the Constitution and the regulatory texts.

378. Further to the information contained in Mexico's second report, it should be noted that the National Government and state governments are continuing to make necessary amendments to legislation and to modernize their administrative machinery and institutions in order to guarantee children's right, without discrimination on any grounds, to protection by the family, society and the State as required by their juvenile status.

379. With regard to the comment concerning protection of juveniles with respect to employment, it is pointed out that Mexico's law and practice have maintained this principle since 1917. The Constitution, in article 123, paragraph A, section III, prohibits the employment of juveniles under the age of 14 years. For those over this age and below 16 years of age the maximum working day is of six hours. In addition, section II prohibits unhealthy or dangerous work, night work in industry and any other work after 10 p.m. for juveniles under the age of 16 years. Section XI states that juveniles under the age of 16 years shall not be permitted to work overtime after their normal working day.

380. The above-mentioned texts show that Mexican legislation only envisages juvenile workers between the ages of 14 and 16 years. It clearly prohibits those under the age of 14 from working, the aim being to enable them to complete their basic education and have a proper family life. This is reinforced by a free State education system.

381. As a member of the International Labour Organisation, Mexico has ratified seven conventions (Nos. 16, 58, 90, 112, 123, 124 and 140) concerning juvenile employment. These form part of the provisions of article 133 of the Constitution, the highest level of national legislation. These instruments are:

Convention No. 16 concerning the Compulsory Medical Examination of Children and Young Persons Employed at Sea, 1921;

Convention No. 58 Fixing the Minimum Age for the Admission of Children to Employment at Sea (Revised 1936);

Convention No. 90 concerning the Night Work of Young Persons Employed in Industry (Revised 1948);

Convention No. 112 concerning the Minimum Age for Admission to Employment as Fishermen, 1959;

Convention No. 123 concerning the Minimum Age for Admission to Employment Underground in Mines, 1965;

Convention No. 124 concerning Medical Examination of Young Persons for Fitness for Employment Underground in Mines, 1965;

Convention No. 140 concerning Paid Educational Leave, 1974.

382. It is pointed out that Mexico's labour and social security legislation not only incorporates the substance of the conventions, but goes even further in the area of juvenile protection measures.

383. In this connection, the Federal Labour Act regulating article 123, section A, of the Constitution establishes legal measures to protect juveniles both in its general principles and in its various titles, particularly Title Five bis.

384. Article 3 of this law defines work as a social right and duty. It is not an item of trade, but requires respect for the freedom and dignity of providers of labour and must take place in conditions which safeguard life, health and a satisfactory standard of living for the worker and his family.

385. Distinctions may not be made between workers on grounds of race, sex, age, religious belief, political views or social status.

386. Article 5 states that the provisions of the Federal Labour Act are a matter in the public domain. Thus the following conditions, whether formal or oral, shall have no legal effect, nor shall they prevent the enjoyment and exercise of rights:

"I. Employment of children under the age of 14;

...

IV. Overtime for children under the age of 16 years;

...

IX. A wage less than that paid to another worker in the same enterprise or establishment for work of equal value, of the same type and duration, on the grounds of age, sex or nationality.

XII. Night work in industry or work after 10 p.m. for juveniles under the age of 16. In Title Two, article 22, on individual labour relations, prohibits the employment of children under the age of 14 years and those over that age but under the age of 16 who have not completed their compulsory education, except in cases approved by the appropriate authority where, in its judgement, studies and work are compatible."

387. Under the terms of article 23, persons over the age of 16 may freely offer their services, subject to the restrictions established in the Act. Juveniles over the age of 14 years but under the age of 16 years require authorization from their parents or guardians, or failing that, from the union to which they belong, the Conciliation and Arbitration Board, the employment inspector or the local authority.

388. Juvenile workers may receive payment of their wages and dispose of them as they see fit.

389. Article 29 prohibits the employment of juveniles under the age of 18 years for the performance of work outside the Republic, except in the case of technical or professional personnel, artists, sportsmen, and specialist workers in general.

390. Article 191 of this Act (in chapter III of Title Six), which deals with employment at sea, prohibits the employment of juveniles under the age of 15 years, and states that under the age of 18 years they may not be employed as bunkermen or stokers.

391. With regard to public service handling operation work in zones under federal jurisdiction, articles 265 and 267 state that juveniles under the age of 16 may not be employed in public service handling operation work, including loading, unloading, stowage, unstowing, lighterage, checking, mooring, berthing, carriage, storage and transhipment of cargo and luggage, whether aboard ship or ashore, in ports, waterways, railway stations and other zones under federal jurisdiction, including training in boats and complementary or related work.

392. With regard to the right of association, under article 362 of the above-mentioned Act, persons over the age of 14 years may belong to trade unions. However, article 372 states that they cannot be members of a trade union administration. Persons over the age of 16 years may hold office in a trade union.

393. The Labour Act states, in article 423, section VII, that the internal labour regulations shall contain the requirement that juveniles shall not undertake unhealthy or dangerous work.

394. Article 541 states that employment inspectors have the following rights and powers:

"I. To monitor compliance with labour regulations, particularly those establishing the rights and obligations of workers and employers, those regulating women's and juveniles' work and those instituting measures to prevent risks at work and to ensure safety and hygiene."

395. As regards legal proceedings, the Act states in article 291 that juvenile workers have capacity to institute legal proceedings without the requirement of any authorization whatsoever, but, if they are not legally represented, the Conciliation and Arbitration Board must request the intervention of the Office of the Counsel-General for Workers for this purpose. In the case of juveniles under the age of 16, this Office appoints a representative for them.

396. Article 988 provides that workers over the age of 14 years, but under the age of 16 years, who have not completed their compulsory education may request authorization to work from the competent Conciliation and Arbitration Board, submitting such documents as are considered appropriate to establish that studies and work are compatible. Upon receipt of the request, the Board shall immediately decide on the matter.

397. Title Five bis refers exclusively to the employment of juveniles. Article 173 states that employment of juveniles over 14 years and under 16 years of age is subject to special supervision and protection by the employment inspectorate.

398. When the branch or activity in which the employment takes place is under federal jurisdiction, the supervision and protection of juvenile workers is the responsibility of the Department of Employment and Social Security, through its Federal Employment Inspection Branch, but when the employment is local, supervision and inspection are the responsibility of the local employment authorities, i.e. the State governors, which exercise these powers through employment branches or departments, in the latter case where the authorities of the Federal District Department are located.

399. Article 174 provides that juveniles over the age of 14 years and under the age of 16 years who wish to work must obtain a medical certificate confirming their fitness for work. The Employment Inspection Branch may, if it considers it necessary, order the medical examination of juveniles, to verify their state of health. No employer may employ juveniles without these requirements being fulfilled.

400. Article 175 indicates the types of work which juveniles may not perform.

401. Article 176 defines as dangerous or unhealthy work which, by its nature, i.e. the physical, chemical or biological conditions of the environment where the work is performed, or the composition of the raw material used, is capable of endangering the life, development and physical and mental health of juveniles. The article also states that subsidiary regulations shall determine the categories of employment covered by the foregoing definition.

402. Article 177 provides that the working day of juveniles over the age of 14 years and under the age of 16 years shall not exceed six hours, and that it must be divided into two periods not exceeding three hours. They must have a break for rest of at least one hour.

403. Article 178 unequivocally prohibits overtime for juveniles under the age of 16 years. In the event of violation of this provision, overtime rates of 200 per cent shall be paid, in addition to the normal hourly wage. It is provided that juveniles shall rest on Sundays and mandatory rest days. If

this rule is broken, the juvenile worker shall receive the following payments: his normal daily wage plus an additional payment of at least 25 per cent of his normal daily wage; regardless of the foregoing, double pay for the work performed on a Sunday or rest day.

404. Article 179 provides that juvenile workers shall enjoy a period of annual paid leave of at least 18 working days. In such cases, the juvenile shall also be entitled to receive a 25 per cent holiday bonus.

405. In its article 180, the Act also imposes on employers of juveniles under the age of 16 years the obligation to require production of medical certification of their fitness for work. Such employers must also maintain available for inspection a special register showing the date of birth, type of work, working hours, wage and other general conditions of employment of the juveniles. The employer must allow the necessary time for completion of schooling and must provide training and instruction. He must furnish to the authorities such reports as they may request.

406. Furthermore, although in practice juveniles under the age of 18 are not employed in public services, the Federal Public Service Workers Act, which regulates section B of article 123 of the Constitution, lays down the following rules concerning juveniles:

> Article 13. Juveniles over the age of 16 years shall have the legal capacity to perform services, receive the corresponding remuneration and carry out activities under the present Act.
>
> Article 14. Conditions which stipulate the following, even when expressly accepted, shall be void and shall not bind the workers: ...
>
> Article 88. The general conditions of employment shall provide: ...
>
> V. Unhealthy and dangerous work which juveniles must not perform and the protection to be given to pregnant workers; and
>
> VI. Other rules which may be necessary in order to achieve greater safety and efficiency at work."

407. The current constitutional and statutory provisions concerning employment are supplemented by collective contracts and employment regulations drawn up as a result of collective bargaining. These documents include the concept of protecting juvenile workers in industry, so that they may receive not only a wage but also the necessary training for advancement to more rewarding posts.

408. Juveniles are sometimes still obliged to work, although on a limited scale, because of economic marginalization, and there are many cases, particularly in urban areas, of children who work for firms during vacation periods or on a part-time basis. This does not affect their physical and social development. They may perform such work only when it is duly authorized by their parents or legal representatives and under the strict monitoring and supervision of the employment authorities.

409. The following information is provided concerning differences in legislation and practice in the employment of juveniles between urban and rural areas.

410. Mexico's labour legislation, the ILO Conventions ratified by Mexico and the Mexican social security laws and agrarian legislation apply generally throughout the Republic. Their provisions belong to the public domain and, consequently, it can be said that from the legal standpoint there is no distinction between workers in urban areas and those in rural areas.

411. There is also no difference as regards employment of juveniles between urban and rural areas, since Mexico's labour legislation applies generally throughout the Republic. Likewise there are no distinctions between workers on the grounds of race, sex, age, religious belief, political views or social status.

412. State authorities are responsible for applying the labour laws, within their jurisdiction, and the only areas which are the exclusive responsibility of the federal authorities are 21 industrial sectors, enterprises administered directly or locally by the Federal Government, those operating under a federal contract or concession and those carrying out work in federal zones or which are subject to federal jurisdiction. Other matters which come under federal jurisdiction are employers' responsibilities with regard to education, training and instruction, and safety and hygiene in the workplace.

413. State employment authorities, local conciliation and arbitration boards, the offices providing legal counsel for workers and the labour inspectorate have particular responsibilities with regard to juvenile employment and supervise compliance with the legislation, which, as has already been mentioned, applies generally and uniformly throughout the Federation.

414. There is still a problem in dealing as effectively as possible with juvenile employment in rural areas, where juveniles generally work under the guardianship and supervision of their parents, who consider this activity as the main form of apprenticeship in the family business.

415. To counter possible exploitation of children in rural employment, the Government of the Republic, state governments and local authorities are seeking to maintain and extend the educational system in rural areas. In Mexico the problem of juveniles without basic education having to perform farm work, with the result that their development and quality of life is affected, may be said to be decreasing.

416. With regard to employment and social security rights, it can be stated that there is no difference, although it is also true to say that these rights may be restricted where people live in isolation or small communities which the employment authorities have difficulty in reaching.

417. In order to reduce marginalization, the Government is operating support and solidarity programmes for marginal groups, with particular attention to children and especially those who work.

Item XII (c) of the list of issues: "Have there been any actual cases of children being subjected to physical maltreatment and, if so, what measures have been taken to prevent such violations of the rights of children?"

418. The measures adopted by the State to ensure the welfare of families, and particularly of children, are implemented through institutions such as the National System for the Full Development of the Family, which has set up a Programme for Prevention of Maltreatment of Juveniles, The Programme's principal purpose is to see to the needs of juveniles who are victims of acts of physical or mental aggression and to provide appropriate treatment, taking account of the family environment, and thus to help with their social integration.

419. Measures have also been adopted in order to help street children. For more information on this subject, see annex 9.

Article 25

420. The demand for the vote began with the Mexican Revolution in 1910 and since then, as explained out in previous reports, there has been equality for every citizen over the age of 18 years to take part freely and directly in the electoral process and in the conduct of public affairs, as defined in article 35 of the Constitution.

421. Paragraph 372 of Mexico's second report mentioned the sole exception in our legal system in this area in relation to ministers of religion. In this connection, the relevant provision of the Constitution, article 130, section (d), was amended in December 1991 to read as follows:

> "(d) Under the terms of the regulatory act, ministers of religion shall not hold public office. As citizens they shall have the right to vote, but not to be elected. Persons who have ceased to be ministers of religion for the period and in the manner prescribed by law may be elected".

422. Similarly, article 41 of the Constitution was partly amended, with regard to the participation of the national political parties in State and municipal elections, to read as follows:

> "The organization of federal elections is a State function exercised by the legislature and the executive of the Union, with the participation of the national political parties and of the citizens, as provided by law. This function shall be exercised through a public body having legal personality and its own resources. Certainty, legality, impartiality, objectivity and professionalism shall be the guiding principles in the exercise of this State function.
>
> The public body shall be the authority in this field, professional in exercising that authority and independent in its decisions. It shall have administrative organs, as well as executive and technical organs. It shall also have supervisory organs, the majority of whose members shall be representatives of national political parties. The supreme administrative organ shall be composed of ordinary and judicial members appointed by the

legislature and the executive and by representatives of the political parties. The executive and technical organs shall be composed of persons having the necessary qualifications to provide a professional electoral service. The electoral district committees shall be composed of citizens.

The public body shall have responsibility for fully and directly carrying out activities - in addition to those determined by the law - relating to the electoral register, preparation for the election day, vote counting and the certification of results, electoral training and civic education and the printing of election materials. It shall also deal with matters relating to the rights and prerogatives of the political parties. The sessions of all electoral colleges shall take place in public in the manner provided by law.

The law shall establish a system for challenging decisions of the public body and an independent court which shall have jurisdiction in electoral matters. This system will give certainty to the various stages of the electoral process and guarantee that electoral acts and decisions will always be subject to the rule of law.

The electoral court shall have the powers and organization determined by the law. It shall function in full session or hold regional hearings but it shall take decisions in full session, which shall be public. The legislature and the executive shall ensure that it is properly constituted. There may be no action or recourse against its decisions, but those pronounced subsequent to the day of an election may be reviewed and, where appropriate, modified only by the electoral colleges in accordance with the provisions of article 60 and article 74, section I of the Constitution. For the performance of its functions it shall have panels of magistrates and examining magistrates who shall be independent and shall act only in accordance with the law. The judicial members of the public body and the magistrate of the court shall satisfy the requirements established by law, which shall not be less than those established by the Constitution for judges of the Supreme Court. They shall be elected from among the candidates proposed by the Federal Executive by a vote of two thirds of the members present in the Chamber of Deputies. If the required majority is not obtained in the first ballot, there shall be a second ballot to select, from among the candidates proposed, the necessary number of judicial members and court magistrates. Appropriate rules and procedure shall be established by law."

423. In observance of the principle of non-discrimination, article 27 of the Federal Electoral Institutions and Procedures Code provides:

"1. The statutes shall determine:

(a) The name of the party and the emblem and colour or colours which distinguish and differentiate it from other political parties. The name and emblem shall not contain any religious or racial references;

(b) The procedures for the free and peaceful affiliation of its members and their rights and obligations. The rights shall include the right to participate personally or through delegates in assemblies and conventions and to be a member of administrative organs ...".

424. With reference to the comment concerning aliens, article 9 of the Federal State Employees Act, regulating article 123, paragraph (b) of the Constitution, states:

> "Workers must ordinarily be of Mexican nationality and may be replaced by foreigners only when there are no Mexicans able to perform the work concerned. Such replacement shall be decided by the head of the department in consultation with the trade union".

425. The Federal Labour Act, supplementing article 7, clarifies this protection more precisely when it states:

> " ... in every enterprise or establishment, the employer must employ a staff of whom at least 90 per cent are Mexican nationals. In the technical and professional categories, the workers must be Mexican, unless no Mexicans are available in a particular speciality, in which case the employer may temporarily employ foreign workers, in a proportion not exceeding 10 per cent of those in that speciality. The employer and the foreign workers shall have the joint obligation to train Mexican workers in the speciality in question. Doctors employed by the enterprise must be Mexican.

426. The rule concludes by stating categorically that "the provisions of this article do not apply to directors, administrators and general managers", which implies that foreigners may in fact occupy such posts indefinitely, which could not in practice apply to the State.

427. Nevertheless, for historical reasons, no national of another country has the right to participate in local or federal elections, which right is exclusively reserved to Mexicans.

Item XIII of the list of issues: "Is there any legislation governing access to the public service and, if so, how is it applied in practice? Is equitable access to such service assured to members of minority groups?

428. The Federal Public Service Workers Act, regulating article 123, paragraph (b), of the Constitution, governs the employment of all persons in the public service.

429. In practice, a public service worker is any person who performs a physical or intellectual service or a combination of the two, by virtue of a regular appointment or by inclusion in lists of temporary workers. Thus, any person belonging to a minority group has access to the public service if he is appointed.

430. In Mexico any classification by race, religion or ethnic group when employment is sought is considered discrimininatory and there are no statistics showing the number of workers in State service who belong to such minorities. However, it is well known that they do participate in the public service, particularly in local government service in areas where there is a large indigenous population. It is worth recalling that Mexico has had presidents of the Republic of indigenous extraction.

Article 26

431. The principles indicated in the previous report continue to apply. It should be added that article 3 of the Constitution has been amended, as is reported in the section relating to article 18 of the Covenant.

Article 27

432. Reference is made here to the comment on article 27 and to item XIV of the list of issues in connection with the second report which asked: "Are there any special factors and difficulties in the effective enjoyment by minorities of their rights under the Covenant? In particular, have concrete measures been taken to provide to the various indigenous groups greater economic and political opportunities? Are minorities represented in Congress and on local governing bodies?

433. Concerning the rights of minorities, on 27 May 1991 the Government of Mexico submitted to the Committee on the Elimination of Racial Discrimination its eighth periodic report, which can be consulted in document CERD/C/194/Add.1. It should also be noted that article 4 of the Constitution was amended as reported in the present document in the section relating to article 2 of the Covenant, (see above, paras. 203 et seq.). Reference has also been made to the CNDH Indigenous Affairs Programme, an effective instrument to enable minorities to exercise their rights.

434. With regard to intolerance towards religious minorities, information is provided in the section of the present document relating to article 18 of the Covenant (see above, para. 44).

LIST OF ANNEXES

Annex 1. Article 89 of the Constitution of the United Mexican States (section X).

Annex 2. Article 27 of the Constitution of the United Mexican States (section III).

Annex 3. Amended text of article 4 of the Constitution.

Annex 4. List of signatories to the Tlatelolco Treaty.

Annex 4.A. Table: Programme or alleged disappearances.

Annex 5. Federal Prevention and Punishment of Torture Act.

Annex 6. Order establishing the National Human Rights Commission (CNDH).

Annex 7. Statutes of the National Human Rights Commission.

Annex 8. Information concerning mass demonstrations.

Annex 9. Information concerning protection of juveniles.